



# CITY OF CANNON BEACH

## AGENDA

Meeting: Planning Commission  
Date: **Thursday, January 26, 2023**  
Time: **6:00 p.m.**  
Location: Council Chambers, City Hall

6:00 CALL TO ORDER

6:01 (1) **Approval of Agenda**

6:02 (2) **Consideration of the Minutes for the Planning Commission Meeting of December 22, 2022.**  
*If the Planning Commission wishes to approve the minutes, an appropriate motion is in order.*

### ACTION ITEMS

6:05 (3) **Public Hearing and Consideration of V#23-01, CIDA request on behalf of the City of Cannon Beach, for a variance to off-street parking requirements at 268 Beaver St.**

**V#23-01**, Public hearing and consideration of a variance request submitted by CIDA, on behalf of the City of Cannon Beach, to exempt the site of the former Cannon Beach Elementary School from meeting the minimum off-street parking requirements established by Cannon Beach Municipal Code 17.78.020 in favor of alternate methods of transit and parking. The property is located at 268 Beaver St. (Taxlots 4000, 4100, 4101, 4200, and 4301, Map 51020CB) in an Institutional (IN) zone. The request will be reviewed under Cannon Beach Municipal Code, Sections 17.78.020, Off-Street Parking Requirements.

6:30 (4) **Public Hearing and Consideration of AA#23-01, Dana Cardwell for an administrative appeal of the City's approval of Development Permit DP#22-19.**

**AA#23-01**, Public hearing and consideration of an administrative appeal submitted by Dana Cardwell of the City's approval of Development Permit DP#22-19 for the extension of a stormwater management system in the Forest Lawn right-of-way adjacent to Taxlot# 4100, Map 51030DA, a Residential Medium Density (R2) zoned property. The request will be reviewed pursuant to Cannon Beach Municipal Code, Section 17.88.180, review consisting of additional evidence or de novo review and applicable sections of the Zoning Ordinance.

### WORK SESSION ITEMS

7:00 (5) **Wetlands Discussion and Presentation by Cameron La Follette of Oregon Coast Alliance.**

### INFORMATIONAL ITEMS

7:30 (6) **Tree Report**

(7) **Ongoing Planning Items:**

**Community Development Department Staffing & Management**

**PO Box 368 Cannon Beach, Oregon 97110 • (503) 436-1581 • TTY (503) 436-8097 • FAX (503) 436-2050**

**[www.ci.cannon-beach.or.us](http://www.ci.cannon-beach.or.us) • [cityhall@ci.cannon-beach.or.us](mailto:cityhall@ci.cannon-beach.or.us)**

**(8) Good of the Order**

**8:00 (9) ADJOURNMENT**

*Please note that agenda items may not be considered in the exact order listed, and all times shown are tentative and approximate. Documents for the record may be submitted prior to the meeting by email, fax, mail, or in person. For questions about the agenda, contact Administrative Assistant, Emily Bare at [Bare@ci.cannon-beach.or.us](mailto:Bare@ci.cannon-beach.or.us) or (503) 436-8054. The meeting is accessible to the disabled. If you need special accommodations to attend or participate in the meeting per the Americans with Disabilities Act (ADA), please contact the City Manager at (503) 436.8050. TTY (503) 436-8097. This information can be made in alternative format as needed for persons with disabilities.*

**Posted: January 19, 2023**

**Join Zoom Meeting:**

Meeting URL: <https://us02web.zoom.us/j/83508783839?pwd=Z0RIYnJFK2ozRmE2TkRBRUFJNlg0dz09>

Meeting ID: 835 0878 3839

Password: 801463

**Dial By Your Location:**

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

Meeting ID: 835 0878 3839

Password: 801463

**View Our Live Stream:** View our [Live Stream](#) on YouTube!

**Minutes of the  
CANNON BEACH PLANNING COMMISSION**  
Thursday, December 22, 2022

Present: Chair Clay Newton and Commissioners Barb Knop, Mike Bates, Charles Bennett, Les Sinclair, Taylor Kemmer, Erik Purdy and Mickey Moritz via Zoom

Excused: Aaron Matusick

Staff: Director of Community Development Jeff Adams, Land Use Attorney Bill Kabeiseman, City Planner Robert St. Clair, and Community Development Administrative Assistant Emily Bare

CALL TO ORDER

Chair Newton called the meeting to order at 6:03 p.m.

ACTION ITEMS

**(1) Approval of Agenda**

Motion: Commissioner Knopp moved to approve the agenda as presented; Commissioner Bates seconded the motion.

Vote: Sinclair, Matusick, Knop, Bates, Moritz, Bennett and Chair Newton voted AYE; the motion passed

Motion: Motion to amend the agenda to discuss new appointments to the Planning Commission. Both Commissioner Knopp and Bates agreed to their first and second motion to amend the agenda for discussion.

Discussion:

**(2) Consideration of the Minutes for the Planning Commission Meeting of November 22, 2022.**

Motion: Commissioner Bates moved to approve the minutes; Commissioner Moritz seconded the motion.

Vote: Sinclair, Knop, Bates, Moritz, Bennett and Chair Newton voted AYE; the motion passed

Robert St. Clair Read the staff report

The applicant, Beach Construction, on behalf of property owners Erik & Rachel Purdy, requests a setback reduction on the east and south sides of Tax lot 51030DA10200 located at the corner of Ross Ln and Spruce St. The purpose of the setback reduction is to minimize the number of trees that would need to be removed in conjunction with the construction of a new single-family dwelling on the currently undeveloped lot. On

October 7, 2022, the City of Cannon Beach denied a tree removal permit application on the recommendation of the City Arborist who suggested that the site plan be revised with an emphasis on tree preservation.

During the November 22, 2022, public hearing the Planning Commission requested additional information regarding the number of trees that may be preserved as a result of the proposed setback reduction as well as a professional assessment from the City Arborist. A letter prepared by the City Arborist, dated November 30<sup>th</sup>, has been added to the record as Exhibit C-3. The applicant submitted a site plan and tree preservation plan letter prepared by Joe Balden of Balden & Associates Arboriculture Services on December 15<sup>th</sup> that has been added to the record as Exhibit A-4.

Based on the information in Exhibit A-4 the following trees are identified for preservation:

- 16" Alder in the northeastern corner of the property;
- 50" Spruce immediately south of the driveway;
- 46" Spruce adjacent to the Spruce St. right-of-way;
- 12" Hemlock near the southeastern corner of the property;
- 36" Spruce near the mid-point of the western property line.

The most recent site plan, shown in Exhibit A-6, provides additional detail regarding anticipated removals in relation to the house location. In this diagram, as well as Exhibit A-4, the location of the house appears to have been shifted to the northwest of the location originally proposed in this application. Based on the measurements in Exhibit A-6 the new proposed location will be within 4 feet 9 inches of western property line. As this is a corner lot the minimum setback along this line is 5 feet. All other setback measurements on the site plan appear to exceed the minimum required distance.

Comments from the City Arborist, seen in Exhibits A-5 and C-4, are supportive of the latest approach and state that it accounts for the protection of critical root zones of trees on the neighboring property as well as identifying mature trees on the subject property to be retained.

#### Public Comment:

Taylor Kemmer from Beach Construction, PO Box 3535 HYWY 101 N Gearheart Oregon.

Owners requesting to shift house site to preserve trees closest to Spruce St. With this shift five trees will be preserved; their roots will stay intact as to not harm any of the other trees. Post and pure foundation will be utilized as needed to preserve the Butrice trees.

Mrs. Kemmer asked if a new tree removal permit application needed to be submitted. Mr. Adams explained that the city would amend the current application

Erik Purdy, 14988 SW Lookout Dr, Tigard Oregon

Joe Baldwin and Jeff Gearheart letters presented, they spoke of post and preserve foundation. Wind thinning trees and gravel drive to reduce stress to trees and preserve large spruce trees (facing Spruce Street) which was recommended by Jeff Gearheart. Emails from Jeff are in packet.

No staff response.

Public Record Closed 6:24pm



Council Question: Commissioner Moritz asked if trees in pink would be removed. Mr. Purdy answered that there is growth coming out of the root ball and a tree that is down. The Tree to the north over the root canopy too much so the tree wouldn't survive.

**(3) Continuation of Consideration of SR 22-03, Beach Construction, on behalf of Eric & Rachel Purdy, application to allow a setback reduction to reduce the front yard setback side yard setback**

**SR 22-03**, Beach Construction, on behalf of Eric & Rachel Purdy, application to allow a setback reduction to reduce the front yard setback from the required 15'0" to 9'10" and the side yard setback from the required 15'0" for a corner lot to 11'0" in order to reduce the number of trees that would need to be removed in conjunction with the construction of a new single family dwelling. The property is located at the corner of Ross Ln. and Spruce St. (Tax Lot 10200, Map 51030DA), and in a Residential Medium Density (R2) Zone. The request will be reviewed against the Municipal Code, Section 17.645.010, Setback Reduction, Provisions Established.

Mr. St. Clair is comfortable as long as the arborist is comfortable.

Commissioner Bates believes that the applicant has done as much as they can, however, don't we owe it to the neighbors to notice of the new plans? Because of the setback issue. Mr. Bates asked if we could approve the clause of 14 day appeal. Mr. Adams the Committee under the 120-day rule what is the city's recourse? Commissioner Moritz asked if the neighbors could appeal to the City Council. Mr. Adams informed the committee to go ahead and state that you want the neighbors noticed.

Motion: Commissioner Bates moved to approve this application on conditions that they meet all of the items Mr. Baldwin listed in his packet. As well as further notification with certified notice to neighbors. Commissioner Knopp Seconded the motion

Vote: Sinclair, Knop, Bates, Moritz, Bennett and Chair Newton voted AYE; the motion passed

WORK SESSION ITEMS

**(4) Track Two Zoning Ordinance Amendments: Public Benefits Developments**

INFORMATIONAL ITEMS

**(5) Tree Report**

Commissioner Bates commented that this is a slow time of year, he is aware Elk Creek Rd has some dead and hazardous trees, he thinks they will add some Sitka.

**(6) Ongoing Planning Items**

**Drone Shoreline Protection Project**

The Drone Shoreline Protection Project power point was presented. The Commission was excited for the plan and results. Chair Newton would be interested to see the effects of King tides. Commissioner Les Sinclair asked if the city receives elevation from dunes. It was explained that we get elevation data, it is all useful information.

**Community Development Annual Review**

Clearer Codes  
Clearer Communications  
Clearer Processes

**(7) Good of the Order**

Commissioner Moritz announced that in January we will be adding a work session on wetlands, and if there was any aspect that the commission would like to learn about. Please email Mr. Adams if there is any questions you may have. Commissioner Sinclair requested to learn about the value of buffer zones and what is effective

Motion: Commissioner Bates moved to approve the minutes; Commissioner Moritz seconded the motion.

Vote: Sinclair, Knop, Bates, Moritz, Bennett and Chair Newton voted AYE; the motion passed

Discussion of Vice Chair

Two members are leaving the commission (Charles Bennett and Barbara Knopp). Thank you for your service. New members coming in and we need to vote on a Vice Chairperson, Mickey Moritz was voted in.

**ADJOURNMENT**

The meeting adjourned at XXX pm.

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Emily Bare  
Community Development  
Administrative Assistant



# Cannon Beach Planning Commission

## Staff Report:

PUBLIC HEARING AND CONSIDERATION OF V23-01, CIDA, ON BEHALF OF THE CITY OF CANNON BEACH, FOR A VARIANCE REQUEST TO EXEMPT THE NECUS PARK/CANNON BEACH ELEMENTARY SCHOOL SITE FROM MEETING THE MINIMUM OFF-STREET PARKING REQUIREMENTS ESTABLISHED BY CANNON BEACH MUNICIPAL CODE 17.78.020 IN FAVOR OF ALTERNATE METHODS OF TRANSIT AND PARKING. THE PROPERTY IS LOCATED AT 268 BEAVER STREET (TAXLOTS 4000, 4100, 4101, 4200, AND 4301, MAP 51020CB) IN AN INSTITUTIONAL (IN) ZONE. THE REQUEST WILL BE REVIEWED UNDER CANNON BEACH MUNICIPAL CODE, SECTIONS 17.78.020, OFF STREET PARKING REQUIREMENTS.

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**Agenda Date:** January 26, 2023

**Prepared By:** Robert St. Clair

## GENERAL INFORMATION

### NOTICE

Public notice for this January 26, 2023 Public Hearing is as follows:

- A. Notice was posted at area Post Offices on January 6, 2023;
- B. Notice was mailed on January 6, 2023 to surrounding landowners within 250' of the exterior boundaries of the property.

### DISCLOSURES

Any disclosures (i.e. conflicts of interest, site visits or ex parte communications)?

### EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on December 27, 2022 unless otherwise noted.

#### **"A" Exhibits – Application Materials**

- A-1** Variance application with diagrams, received December 27, 2022;

#### **"B" Exhibits – Agency Comments**

None received as of this writing;

#### **"C" Exhibits – Cannon Beach Supplements**

- C-1** November 2022 Planning Commission Work Session Staff Report

#### **"D" Exhibits – Public Comment**

None received as of this writing;

## SUMMARY & BACKGROUND

The applicant, CIDA, on behalf of the City of Cannon Beach, requests a variance to exempt the subject site from meeting the minimum required off street parking requirements in favor of alternate methods of transit and parking. During the November 2022 Planning Commission meeting this item was discussed as a work session item (Exhibit C-1) during which the Commission heard that the site has an insufficient amount of off-street parking available and that developing a large parking lot would be contrary to the goals of the redevelopment project. During this work session the Commission determined that no more than 31 parking spaces are necessary for the anticipated use levels of the site. The purpose of this application is to reduce the required amount of parking from 31 spaces to 7 angled stalls on Beaver St. that will be within the subject property's boundaries after the City makes modifications to the Beaver St. right-of-way.

## Applicable Criteria

### Off Street Parking

#### 17.78.010 Requirements Generally

- A. *The provision and maintenance of off-street parking is a continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking. The subsequent use of property for which the building permit is issued is conditional upon the unqualified continuance and availability of the amount of off-street parking required by this chapter. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing required off-street parking, it shall be a violation of this chapter to begin or maintain such altered use until the required increase in off-street parking is provided.*

**Staff Comment:** The conversion of the existing former Cannon Beach Elementary School into a community center is an adaptive reuse project that seeks to minimize the amount of new construction activity. The school was constructed in the 1950s prior to the establishment of current off-street parking requirements, however the amount of on and off-street parking available was likely sufficient to meet the needs of the school's relatively small staff.

The adaptation of the site into a community center is a change of use which requires the application of current parking standards. The table in 17.78.020 which states the parking requirements by type and area contains two categories which may be applied to the site: "Schools, elementary" and "Meeting rooms." The first category no longer applies as that use has ceased and the site no longer functions as an elementary school. The "meeting rooms" category requires one parking space per 400 square feet of gross floor area, which calculates to a minimum of 130 spaces for the 12,950 gross square footage of the site. Providing this level of parking is impractical within the confines of the site and conflicts with the objectives of the redevelopment project.

The parking standards table also contains a "similar uses or aggregate" category in which a use that is not specifically described may be evaluated on a case-by-case basis. Meets criteria.

- B. *Requirements for types of buildings and uses not specifically listed herein shall be determined by the planning commission based upon the requirements of comparable uses listed.*

**Staff Comment:** During the November 2022 work session the Planning Commission determined that the community center does not fit the description of a meeting hall and should be evaluated individually. In the work session the Commission made the following determination:

<b>Classroom Building:</b> 4 (meeting rooms) + 1 (office). One space per presenter/facilitator.	5 stalls
<b>Gym Building:</b> 7,034 square feet, one stall per 400 square feet.	17.6 stalls
<b>Food Bank:</b> 3,300 square feet, one stall per 400 square feet.	8.3 stalls
<b>Total:</b>	31 stalls

## 17.78.020 Off-Street Parking Requirements

- A. *At the time a structure is erected or enlarged or the use of a structure or parcel of land changes, off-street parking spaces shall be provided in accordance with this section and Sections 17.78.010, 17.78.030, and 17.78.040.*

**Staff Comment:** This redevelopment project intends to use the former playground as a park connecting the community center buildings to Ecola Creek. Using this area for off-street parking would prevent this opportunity and likely result in a situation where visitors to Cannon Beach use the parking area for purposes unrelated to the operation of a community center. This would have a negative impact on the ability for members of the public to use the community center for its intended purpose. The proposed reconfiguration of the rights-of-way and on-street parking for Beaver and Antler Streets and use of alternate transit access would satisfy this requirement while meeting the redevelopment’s intended purposes. Meets criteria.

- B. *If a parking space has been provided in connection with an existing use, the parking space shall not be eliminated if it would result in less than is required by this section.*

**Staff Comment:** The Concept Public Improvements Plan, described as Exhibit A in the application material (Exhibit A-1) shows a reconfiguration of Beaver Ave and N. Antler St. where seven angled parking spaces will be provided directly in front of the school. This reconfiguration would result in an increase to the overall parking available at the community center. Meets criteria.

- C. *Where square feet are specified, the area measured shall be gross floor area, where gross floor area means the sum of the gross horizontal area of all floors of a building, as measured from the exterior walls of a building. Where employees are specified, persons counted shall be those working on the premises including the proprietors, during the largest shift at a peak season.*

**Staff Comment:** The Planning Commission’s November 2022 determination is based on a combination of the number of presenters or facilitators needed for the classroom building and the square footage of the gym. The Commission came to its determination with the understanding that not all spaces are intended to be in use at the same time, therefore a reduced level of on-site parking is likely sufficient for the facility’s needs. Meets criteria.

## Variances

### 17.84.030 Criteria for Granting

- A. *Variances to a requirement of this title, with respect to lot area and dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance, decks and walls, and other quantitative requirements, may be granted only if, on the basis of the application, investigation and evidence submitted by the applicant, all four expressly written findings are made:*

1. *That a strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty or unnecessary hardship and would be inconsistent with the objectives of the comprehensive plan; and*
2. *That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zone; and*
3. *That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the near vicinity; and*
4. *That the granting of the variance would support policies contained within the comprehensive plan.*

**Staff Comment:** This application seeks to provide alternatives to the previously discussed undesirable outcomes that would result from a strict or literal application of the off-street parking requirements. As this is an adaptive reuse project that seeks to minimize the amount of new construction and provide community enhancing open space, the City and its consultants are required to fulfil the project's objectives within the space available. Additionally, the Planning Commission has determined that the community center is unlikely to be consistently operating at full capacity on a regular basis and may operate at times that do not create a conflict with other uses in the area.

The availability of parking is a known issue in the City and is addressed in the Transportation System Plan that was adopted in 2022 and contains alternatives that may improve parking in the downtown area to a point, however known constraints within the City generally and downtown particularly will necessitate the development of alternative parking strategies and increased reliance on public transportation, particularly during peak tourist periods. Meets criteria.

*B. Variances in accordance with this section should not ordinarily be granted if the special circumstances on which the applicant relies are a result of the actions of the applicant, or owner, or previous owners.*

**Staff Comment:** This criterion is generally taken to mean that a variance request cannot be made to remedy a self-induced hardship or correct a land use violation. The circumstances applying to this project do not meet the definition of a self-induced hardship as the school facility was legitimately erected and served in its original capacity for several decades. Meets criteria.

## **Staff Recommendation**

Staff recommends approval.

## **Procedural Requirements**

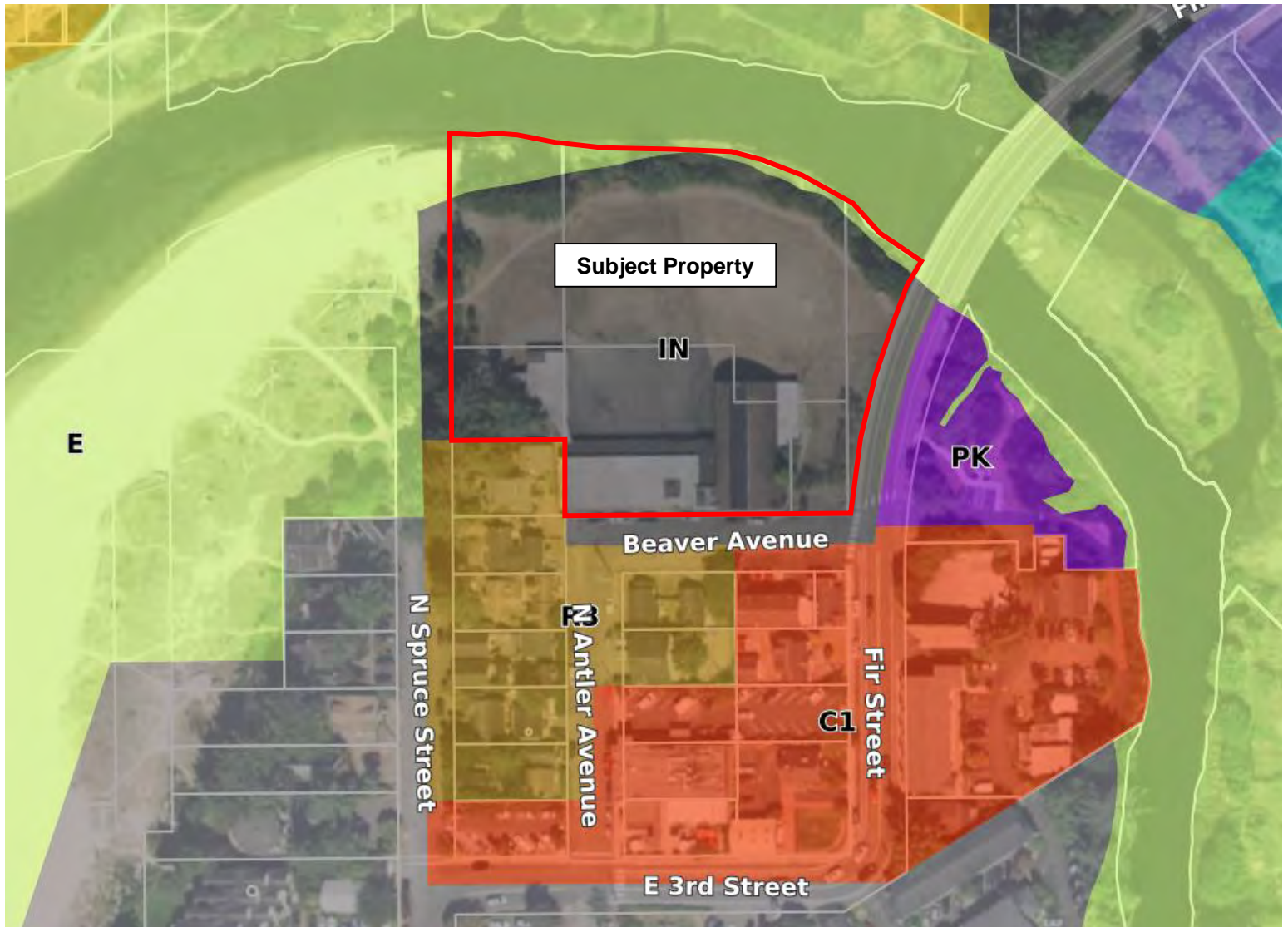
This application is subject to ORS 227.178, requiring the City to take final action within 120 days after the application is deemed complete. It was submitted December 27, 2022; and determined to be complete on December 27, 2022. Based on this, the City must make a final decision before April 26, 2023.

The Planning Commission's January 26<sup>th</sup> meeting will be the first evidentiary hearing on this request. ORS 197.763(6) allows any party to request a continuance. If such a request is made, it should be granted. The Planning Commission's next regularly scheduled hearing date is Thursday, February 23, 2023.

## **DECISION, CONDITIONS AND FINDINGS**

**Motion:** Having considered the evidence in the record, based on a motion from Commissioner NAME, seconded by Commissioner NAME, the Planning Commission moves to (approve/approve with conditions/or deny) the CIDA application, on behalf of the City of Cannon Beach, for a variance to off-street parking requirements for the redevelopment of the Cannon Beach Elementary School, application V# 23-01, as discussed at this public meeting (subject to the following conditions):

## Site Location Map







# CITY OF CANNON BEACH

## OFF-STREET PARKING & LOADING FACILITIES VARIANCE REQUEST APPLICATION

Please fill out this form completely. Please type or print.

Applicant Name: CIDA

Mailing Address: 15895 SW 72nd Ave, Suite 200  
Portland, OR 97225

Email Address: dustinj@cidainc.com

Telephone: (503) 226-1285

Property-Owner Name: City of Cannon Beach

(if other than applicant)

Mailing Address: 163 E. Gower St.

PO Box 368, Cannon Beach, OR 97110

Email Address: rbarrett@ci.cannon-beach.or.us

Telephone: (503) 436-8052

Property Location: 268 Beaver Street, Cannon Beach, OR 97110

(street address)

Map No.: 5 10 20 CB Tax Lot No.: 4200, 4101, 4301, 4100, 8, 9, 10, 11 & 12

### VARIANCE REQUEST:

1. Description of variance that is being sought.  
Please see attached letter dated 12/27/2022.
2. Description of the proposed building plans pertinent to the variance request.  
Please see attached letter dated 12/27/2022.
3. Justification of the variance request. Explain how the request meets each of the following criteria for granting a variance.
  - a. That neither present or anticipated future traffic volumes generated by the use(s) of the site or uses(s) of sites in the vicinity require the strict or literal interpretation and enforcement of the

requirements of the title; or the granting of the variance will protect a wetland or wetland buffer area.

Please see attached letter dated 12/27/2022.

- b. That a reduction will not result in the parking/loading of vehicles on public streets in a manner that will interfere with the flow of traffic or streets.

Please see attached letter dated 12/27/2022.

- c. That a reduction will not create a safety hazard or any other condition inconsistent with the objectives of the Zoning Ordinance or the policies of the Comprehensive Plan.

Please see attached letter dated 12/27/2022.

**Use extra sheets, if necessary, for answering the above questions.** Attach a scale-drawing showing the dimensions of the property, adjacent street(s), dimensions of existing structures, and dimensions of proposed development.

**Fee: \$500.00**

Applicant Signature:  Date: December 27, 2022  
Property Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

If the applicant is other than the owner, the owner hereby grants permission for the applicant to act on his/her behalf. Please attach the name, address, phone number, and signature of any additional property owners.

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*For Staff Use Only:*

Received on: \_\_\_\_\_ By: \_\_\_\_\_  
Fee Paid: \_\_\_\_\_ Receipt No.: \_\_\_\_\_

Fees:

803 - Planning \$500  
(Last revised March 2021)



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## Project Memorandum

Project No: 220039.01 Date: December 27, 2022  
Project Name: Cannon Beach Elementary Rejuvenation Project  
Subject: Requested Variance for Reduction in Off-Street Parking Requirements  
By: Dustin Johnson, Project Architect (CIDA Architects and Engineers)  
To: Cannon Beach Planning Commission

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### VARIANCE REQUEST:

#### I. Description of the variance that is being sought:

Applicant's proposal for the Planning Commission's consideration is to exempt the subject site from meeting the minimum required off-street parking requirements established by Cannon Beach Municipal Code Chapter 17.78.020 in favor of alternate methods of transit and parking described in Section 3 of this application.

In calculating the minimum required off-street parking for the project Applicant noted that many of the proposed uses of the existing buildings and site do not fit the descriptions of uses identified in Chapter 17.78.020 used for the purpose of establishing minimum parking requirements. As such and in accordance with CBMC 17.78.010(B) the minimum parking requirements for this project were determined in a Planning Commission Work Session on November 22<sup>nd</sup>, 2022 and as follows:

**Classroom Bldg (4,520 SF):** 4 (meeting rooms) + 1 (entry/office) = 5 stalls  
(1 space per presenter/facilitator)

**Gym Bldg (7,034 SF):** 7,034 SF/ 400 SF = 17.6 stalls  
(1 stall per 400 SF)

**Food Bank (3,300 SF):** 3,300 SF/ 400 SF = 8.3 stalls  
(1 stall per 400 SF)

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**Total:** **31 stalls.**

Please reference attached Off-Street Parking Determination (Exhibit D) for additional information.

By means of this variance request and for reasons described throughout this application the applicant proposes to reduce the minimum required off-street parking stalls by 31.

Please note that under a separate process through Public Works and City Council the Applicant will be proposing a lot line adjustment that would result in the subject site acquiring 15-18 ft of the adjacent Beaver Avenue right-of-way, as well as proposing changing the pattern of traffic on Beaver Avenue and Antler Street to be one-way and striping designated angled parking stalls along the north side of Beaver Avenue (Please see attached Exhibit A Concept Public Improvement Plan). These modifications will increase the number of on-street parking stalls to 22 stalls along Beaver Street and Antler Street, of which the 7 angled stalls striped adjacent to

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(north of) Beaver Street would be located within the boundary of the subject site and may be considered 'off-street'.

## **2. Description of the proposed building plans pertinent to the variance request.**

The Cannon Beach Elementary Rejuvenation Project is an adaptive re-use project aimed at reactivating the former Cannon Beach Elementary School and NeCus Park site for use by Cannon Beach visitors and residents, businesses, and the Clatsop Nehalem Confederated Tribe for a variety of community interests.

The 2.5-acre project site is situated at the north end of Cannon Beach and consists of multiple tax lots zoned 'IN' (Institutional). It is bordered by Ecola Creek to the north, Fir Street to the east, Beaver Street to the south and undeveloped city-owned property with beach access to the west. Zoning adjacent to the property includes 'E' (Estuary) to the north and west, 'PK' (Park Management) to the east and a combination of 'C1' (Limited Commercial) and 'R3' (High Density Residential) to the south.

As the site of the former Clatsop-Nehalem Tribal village of 'NeCus' for generations (perhaps over a thousand years) the site is nationally recognized as culturally significant and is considered one of the last best preserved Native American heritage sites on the West Coast. Given its location on the estuary where Ecola Creek discharges to the Pacific Ocean as well as the diversity of resident and migrating wildlife that frequent the bordering riparian area, the site is also recognized as both geographically and ecologically significant. These unique features and cultural heritage of the project site have inspired significant interest amongst public and Tribal stakeholders who have been actively engaged throughout the Programming and Schematic Design phases of the project.

Site vehicular access is by its frontage with Beaver Street as well as a gravel drive at the southwest corner of the site via N Spruce Street. A small asphalt-paved area exists on-site and is currently used as a vehicle turnaround by patrons of the food bank as well as miscellaneous recreational uses by NeCus Park users. Existing parking for the site is limited to three off-street paved stalls at the site's southeast corner and parallel on-street parking along Beaver Street.

The site contains three existing buildings of various construction types and functions. Two of the existing buildings (Structures 1 and 2 below) were last occupied by Cannon Beach Elementary School and have been vacant since 2013. The third building (Structure 3 below) was also occupied by the elementary school and now supports operations of the Cannon Beach Community Food Pantry. Additional details for each structure are as follows:

Structure 1: Henceforth referred to as the 'Classroom Building' is an approximately 4,520 square foot wood frame structure with slab-on-grade foundation built in 1950. The building currently consists of classrooms, administrative offices and ancillary spaces including a covered walkway on the north side of the building. Proposed uses include classroom, exhibit space and general assembly spaces, without fixed seating.

Structure 2: Henceforth referred to as the 'Gym Building' is an approximately 7,034 square foot wood framed barrel vault structure with slab-on-grade foundation containing an open vaulted gym space and a 964 square foot classroom mezzanine with cafeteria and ancillary spaces below. The building also contains a 415 square foot addition at the northeast corner formerly housing the school's kitchen. Proposed uses for this space include gymnasium, event space (unconcentrated assembly space), storage, and kitchen space.

Structure 3: Henceforth referred to as the 'Food Bank' is an approximately 3,300 square foot wood framed structure with crawl space foundation. This structure is not incorporated with the current scope of work of the CBE Rejuvenation Project beyond basic site programming. The proposed use will remain a food pantry.



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WWW.CIDAINC.COM

Please refer to attached Exhibit 'C' Existing Conditions Survey and Exhibit 'B' Concept Site Plan for existing conditions and proposed modifications, respectively.

**3. Justification of the variance request. Explain how the request meets each of the following criteria for granting a variance.**

- a. **That neither present or anticipated future traffic volumes generated by the use(s) of the site or use(s) of sites in the vicinity require the strict or literal interpretation and enforcement of the requirements of the title; or the granting of the variance will protect a wetland or wetland buffer area.**

Given the various uses to be accommodated by the adaptive re-use of the site and buildings there is anticipated to be an oscillating intensity of traffic volumes generated, with low traffic demand expected to be the normal circumstance and public events generating higher traffic volumes being an exception on designated occasions. Applicant believes that a strict or literal interpretation and enforcement of the title is not required due to the subject site being under ownership and management of the City of Cannon Beach who will have the ability to directly mitigate the impact to the current traffic and parking infrastructure by scheduling higher-intensity uses during times of the year historically proven to have lower traffic volumes (e.g., off-peak tourism season September through May). When large public events are held, the City will also have the means to coordinate with several local businesses within two blocks of the site whose parking lots have low to moderate usage during peak-hour traffic and as noted in a recent study titled '*City of Cannon Beach Parking Data Collection Summary Task 3.1 – Existing Conditions Analysis*' dated June 4, 2021. This study also identifies nearby on-street parking along Fir Street, Antler Street and N. Spruce Street to be in low usage during peak traffic hours.

- b. **That a reduction will not result in the parking/loading of vehicles on public streets in a manner that will interfere with the flow of traffic or streets.**

As indicated above, the level of traffic generated by the project will largely be governed by the City's management of the facility's schedule and by planning for higher-intensity events during non-peak hours and seasons. Additionally, the *City of Cannon Beach Parking Data Collection Summary Task 3.1 – Existing Conditions Analysis* identifies ample existing on-street and off-street parking opportunities located adjacent to and within two blocks of the site, making the project site easily accessible from existing parking infrastructure located within a short walking distance. The Applicant further proposes a drop-off area as noted in the attached Exhibit 'A' for shuttles and private vehicles, lending towards increased accessibility for those using public transit or who may have mobility challenges.

Furthermore, and as indicated in Section 1 above, Applicant will be proposing via a separate jurisdictional process to convert Beaver Avenue and Antler Street to a one-way traffic pattern which will allow for designated diagonal parking to be paved and striped directly adjacent to the site and out of the public right-of-way.

Through the combination of informed scheduling of the facility by the City of Cannon Beach, the surveyed availability of existing nearby on-street and off-street parking infrastructure as well as the noted proposed improvements to Beaver Avenue and Antler Street, Applicant intends that the proposed parking reduction will not lend towards interference with the flow of affected traffic or streets.

- c. **That a reduction will not create a safety hazard or any other condition inconsistent with the objectives of the Zoning Ordinance or the policies of the Comprehensive Plan.**

The proposed off-street parking reduction will serve to preserve the function of Ne-Cus park as a public asset of ecological, historical, cultural and archaeological significance while



15895 SW 72ND AVE  
SUITE 200  
PORTLAND, OR 97224  
PHONE: 503.226.1285  
FAX: 503.226.1670  
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WWW.CIDAINC.COM

existing and proposed pedestrian infrastructure from on-street and off-site parking assets will serve to enhance pedestrian safety in accessing and exiting the site. This variance request does not create conditions known by Applicant to be inconsistent with other objectives of the Zoning Ordinance or the Comprehensive Plan.

#### 4. Other Considerations

There are multiple reasons for requesting this variance, however those of highest priority follow and are based on several months of community outreach to understand the priorities of all stakeholders involved in the project and site, including Cannon Beach residents, business owners and visitors, members of the Clatsop Nehalem Tribe and the City of Cannon Beach (Owner):

1. As mentioned in Section 2 above, the Ne'Cus site is one of the best preserved and oldest indigenous villages on the West Coast, currently protected by varying depths of shallow sediment. The existence of the Village of Ne'Cus on this site was documented by the Lewis and Clark Expedition in 1806 and verified in recent years via ground-penetrating radar (GPR) by Portland State University professor and archaeologist Doug Deur (Cannon Beach resident and member of the Clatsop-Nehalem Tribe). The process of installing the infrastructure to support off street parking (storm conveyance system, paving, subgrade structure, etc.) is expected to result in damage to and loss of artifacts of culturally historic significance.
2. An important function of the revitalized Cannon Beach Elementary School is for the site and buildings to be used to educate visitors about the rich history and way of life of the Clatsop-Nehalem people on this site and throughout this region. Part of that education is the importance of the connection between the documented locations of the Tribe's long houses and the Ecola Estuary. This education, which is expected to spread awareness of this significant piece of Pacific Northwest history will be all but impossible to convey if it is altered into a new parking area. It should be noted that the only locations geometrically available to off-street parking would be located between the existing school and the estuary, where much of the way of life of the Tribe's ancestors unfolded.
3. Beyond its historical and archaeological significance, the site is considered sacred to living descendants of Clatsop-Nehalem tribal members currently residing throughout the Pacific Northwest, and even within the Cannon Beach community. These living Tribal members use this site to celebrate their ancestors and heritage by hosting Tribal ceremonies, celebrating the annual return of salmon to Ecola Estuary and for personal reflection and solitude. These active members of the Tribe have offered significant hours of design collaboration to date to ensure the project is developed harmoniously with the Tribe's values – Values which preclude use of this site for surface parking.
4. NeCus Park is an invaluable local resource for adults and children for outdoor recreation, hiking, bird watching, animal passage, turf sports and beach access among other activities. It is the resounding desire of Cannon Beach residents that this critical function be preserved in its fullest capacity.

It is important to re-iterate that the above items were discovered during the Programming Phase of the project, not only by meeting with the Clatsop Nehalem Tribe but by community outreach to local residents and business owners, visitors and City of Cannon Beach officials. Preservation of the site and conveyance of the history of the Clatsop Nehalem people were of the highest rated priorities amongst all stakeholder groups surveyed.

End of memo



EXHIBIT 'A' - CONCEPT PUBLIC IMPROVEMENTS PLAN



CANNON BEACH REJUVENATION  
PROJECT - PHASE 1  
EXHIBIT A







NOTES:

1. THE BOUNDARY SHOWN HEREON WAS DERIVED FROM CS-12951, RECORDED IN 2014. WE RECOVERED MONUMENTS SHOWN AS FOUND AND SET ON SAID SURVEY RECORD. PARCELS AND TRACTS DESCRIBED IN PRELIMINARY TITLE REPORT ORDER NO. 360420000968 ARE SHOWN HEREON.
2. TITLE EXCEPTION (9) IS AN EASEMENT GRANTED TO PACIFIC POWER & LIGHT COMPANY, AFFECTING THE WEST 8' OF LOT 8, AS SHOWN HEREON.
3. FIELD WORK WAS COMPLETED ON JULY 13, 2022

TOPOGRAPHIC SURVEY

HORIZONTAL DATUM (BASIS OF BEARINGS):

OREGON NORTH STATE PLANE COORDINATE SYSTEM NAD 83 (2011)  
BASED ON GNSS OBSERVATIONS USING THE OREGON REALTIME GPS NET WORK (ORGN).  
DISTANCES SHOWN HEREON ARE GROUND DISTANCES, INTERNATIONAL FEET,  
SCALED ABOUT CONTROL POINT NO. 1. TO CONVERT TO GRID DISTANCES  
MULTIPLY BY THE COMBINED FACTOR OF 0.999979251.

VERTICAL DATUM:

NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88), USING GEOID18, COMPUTED FROM GNSS  
TIES USING THE OREGON REALTIME GPS NETWORK (ORGN).

LEGEND:

- BUILDING  
BUILDING OVERHANG  
FLOW LINE CURB  
STANDARD CURB  
EDGE OF PAVEMENT  
EDGE OF GRAVEL  
WETLANDS - MARKED BY OTHERS  
WATER  
STORM SEWER  
GAS  
ELECTRIC  
OVERHEAD POWER  
SANITARY SEWER  
TELEPHONE  
COMMUNICATION  
FENCE - WOOD  
FENCE - CHAINLINK  
CENTERLINE  
RIGHT OF WAY  
BOUNDARY LINE  
EASEMENT  
LOT/PARCEL LINE  
BUILDING HATCH  
CONCRETE HATCH  
GRAVEL HATCH
- FOUND MONUMENT NO.  
FOUND MONUMENT - SEE MONUMENT TABLE  
CONTROL POINT - SEE CONTROL TABLE  
POWER METER  
POWER POLE  
POWER POLE W/ LIGHT  
GUY ANCHOR  
FIRE HYDRANT  
WATER METER  
WATER VALVE  
SANITARY SEWER CLEANOUT  
SANITARY SEWER MANHOLE  
STORM CATCH BASIN  
STORM ROOF DRAIN  
GAS VALVE  
GAS METER  
TELEPHONE RISER  
SIGN  
MAILBOX  
TREE - DECIDUOUS  
TREE - CONIFER  
WETLAND FLAG

CONTROL POINTS TABLE			
POINT NO.	NORTHING	EASTING	ELEVATION
2	833848.62	7321850.85	14.75
3	833861.17	7321678.00	15.32
4	833657.99	7321482.71	16.53
5	833302.30	7321510.06	17.23
6	833296.24	7321666.71	15.22
7	833572.64	7321638.84	17.10

TITLE REPORT LEGAL DESCRIPTON:

EXHIBIT A FROM PRELIMINARY TITLE REPORT PREPARED BY TICOR TITLE COMPANY OF OREGON, ORDER NO. 360420000968, DATED MARCH 2, 2020

PARCEL I:  
TRACT 1:  
LOTS 8, 9 AND 10, BLOCK 5, ANTLER LODGE, IN THE CITY OF CANNON BEACH, CLATSOP COUNTY, OREGON.  
ALSO:  
COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 8, BLOCK 5, ANTLER LODGE; AND RUNNING THENCE NORTH, ON THE WEST LINE OF SAID LOT EXTENDED, A DISTANCE OF 50 FEET; AND RUNNING THENCE EAST, PARALLEL WITH THE NORTH LINE OF SAID LOTS 8, 9 AND 10, A DISTANCE OF 150 FEET; THENCE SOUTH, ON THE EAST LINE OF SAID LOT 10 EXTENDED, TO THE NORTHEAST CORNER OF SAID LOT 10; AND THENCE RUNNING WEST, ALONG THE NORTH LINE OF SAID LOTS 8, 9 AND 10, TO THE POINT OF BEGINNING, IN THE CITY OF CANNON BEACH, CLATSOP COUNTY, OREGON.

TRACT 2:  
LOT 11, BLOCK 5, ANTLER LODGE, IN THE CITY OF CANNON BEACH, CLATSOP COUNTY, OREGON.

PARCEL II:  
TRACT 1:  
THAT PORTION OF SECTION 20 IN TOWNSHIP 5 NORTH, RANGE 10 WEST OF WILLAMETTE MERIDIAN, CITY OF CANNON BEACH, CLATSOP COUNTY, OREGON, DESCRIBED AS FOLLOWS:  
COMMENCING AT THE NORTHWEST CORNER OF LOT 6, BLOCK 5 OF THE TOWN OF ANTLER LODGE (NOW CANNON BEACH), CLATSOP COUNTY, AS Laid, OUT BY A.W. SMITH, ORIGINAL GRANTOR; AND RUNNING THENCE NORTH, ON THE WEST LINE OF SAID LOT 6 IF EXTENDED, A DISTANCE OF 50 FEET; AND THENCE RUNNING EAST, AND PARALLEL WITH THE NORTH LINE OF LOTS 7 AND 6 IN SAID BLOCK 5, A DISTANCE OF 100 FEET; THENCE SOUTH, ON THE EAST LINE OF LOT 7 IN SAID BLOCK 5, IF EXTENDED, TO THE NORTHEAST CORNER OF SAID LOT 7; AND THENCE RUNNING WEST, ALONG THE NORTH LINE OF SAID LOT 7 AND 7 IN SAID BLOCK 5, TO THE PLACE OF BEGINNING.

TRACT 2:  
THE NORTH 32 FEET OF LOTS 6 AND 7, BLOCK 5, ANTLER LODGE, CITY OF CANNON BEACH, CLATSOP COUNTY, OREGON.

PARCEL III:  
LOT 12, BLOCK 5, ANTLER LODGE, IN THE CITY OF CANNON BEACH, CLATSOP COUNTY, OREGON.

FOUND MONUMENTS TABLE	
POINT NO.	DESCRIPTION
1	FOUND NAIL W/ BRASS WASHER STAMPED "OTAK INC"
200	FOUND PK NAIL, ORIGIN UNKNOWN, SEE CS-12951
201	FOUND 5/8" REBAR W/ YPC, ILLEGIBLE CAP
202	FOUND 5/8" REBAR W/ YPC MARKED "OTAK INC" IN MONUMENT CASE
203	FOUND 5/8" REBAR W/ YPC MARKED "OTAK INC"
204	FOUND 5/8" REBAR W/ YPC MARKED "OTAK INC"
205	FOUND 5/8" REBAR, NO CAP, IN MONUMENT CASE
206	FOUND STONE WITH CHISELED "X" IN MONUMENT CASE
207	FOUND 5/8" REBAR W/ YPC MARKED "OTAK INC"
208	FOUND 1/2" REBAR, NO CAP, ORIGIN UNKNOWN, SEE CS-12951
209	FOUND 5/8" REBAR W/ YPC MARKED "K FOESTE LS 849"

UTILITY NOTE:

THE LOCATION OF EXISTING UNDERGROUND UTILITY FACILITIES SHOWN HEREON ARE BASED ON LOCATE MARKS REQUESTED FOR THIS SURVEY PER ONE CALL PUBLIC LOCATE TICKETS 22163352 AND 22198144. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OF THE DELINEATION OF SUCH UNDERGROUND UTILITIES BY THE RESPECTIVE UTILITY OWNERS, NOR FOR THE EXISTENCE OF BURIED OBJECTS WHICH ARE NOT SHOWN ON THE PLAN. ALL UTILITY LOCATIONS SHOULD BE FIELD VERIFIED PRIOR TO CONSTRUCTION.

S&F Land Services

PORTLAND, VANCOUVER, BEND, SEASIDE

901 NW CARLON AVE, SUITE 3

BEND, OR 97703

(541) 797-0954

WWW.SFLANDS.COM

DATE

JULY 14, 2022

JOB NO.

2022-092-16

FIELD

JPW/EH

EMAIL: INFO@SFLANDS.COM

DRAWN

DJR

CHECKED

MJF

SURVEY FOR:

RED PLAINS PROFESSIONAL, INC.  
CITY OF CANNON BEACH

SW 1/4 SECTION 20  
TOWNSHIP 5 NORTH, RANGE 10 WEST  
W.M., CITY OF CANNON CANNON BEACH,  
CLATSOP COUNTY, OREGON

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
JUNE 08, 2009  
MATTHEW J. FAULKNER  
75618LS

RENEWS: 12/31/23

2209216\_Topo.dwg



# EXHIBIT 'D' - OFF-STREET PARKING DETERMINATION



## CITY OF CANNON BEACH

### BEFORE THE PLANNING COMMISSION OF THE CITY OF CANNON BEACH

#### Off-Street Parking Determination CBMC 17.78.010(B)

At its November 22 regularly scheduled meeting, the Planning Commission came to a conclusion regarding the Cannon Beach Municipal Code CBMC 17.78.010(B), Off-Street Parking Requirements, which states that “Requirements for types of buildings and uses not specifically listed herein shall be determined by the planning commission based upon the requirements of comparable uses listed.”

The Planning Commission determined that the School Building should be treated as an educational space, where each classroom space would provide one off-street parking space per presenter or facilitator and the Gym Building would be treated as an event space, requiring one space per every 400 SF of floor area:

<b>Classroom Building (4,520 SF):</b>	4 (meeting rooms) +
(1 space per presenter/facilitator)	1 (entry/office)

<b>Gym Building (7,034 SF):</b>	17.6
(1 space per 400 SF)	

<b>Food Bank Building (3,300 SF):</b>	8.3
(1 space per 400 SF)	

<b>SITE TOTAL:</b>	31 parking spaces
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# Cannon Beach Planning Commission

## STAFF REPORT

### CANNON BEACH ELEMENTARY SCHOOL REJUVENATION PROJECT & CURRENT ZONING CONSIDERATION

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**Work Session Date:** November 22, 2022

**Prepared by:** Staff

#### BACKGROUND

The CBE Rejuvenation project is in the middle of the Schematic Design Phase. During this phase there were things that came to light that are outside of the city's code requirements (parking) or that would require the city to take back right of way for the benefit of the project and potentially change Beaver street to "One Way". Many of the Schematic design drawings have "placeholders" that show what the design might look like either show the design possibilities with the variance or the current physical properties if the variance is not pursued or granted.

The consultant and staff brought a discussion of the following matters before the City Council for their consideration and direction at the Council's November 8, 2022 work session, where the Council gave direction to move the project forward.

#### ANALYSIS/INFORMATION

##### Variance of code requirements for off-street parking

It was recognized early on that meeting the code requirements for parking would result in a very different project than what would meet the public's expectations. To develop the parking requirements on-site would require paving of a significant portion of the Ne'Cus site on the north side on the gym and classrooms. City Staff provided a Zoning Verification Letter to the City and Project Consultant, CIDA, dated October 21, 2022 (Attachment B), which outlines the major zoning constraints, including the off-street parking needs.

Possible mitigation factors currently include the design of a significant cut-out to accommodate a bus stop on Hemlock, pedestrian connections public parking via an existing path from Hemlock to the parking area around the treatment plant and consideration of event management so that the scheduling of events would place a self-imposed limitation on maximum occupancy of the site at one given time. CIDA has provided a Project Memorandum (Attachment C), which explains the rationale for determining the parking impacts around the projected use-loads and facility functions.

##### Reallocate 15 feet of Beaver Street Right-Of-Way to the school property

Currently the property line ends at a point 5 feet from the south side of the gym. Reallocating 15 feet of the Beaver Street Right-Of-Way to the school property would accommodate more pedestrian traffic around what appears to be the "natural" location of the entrance on the south side of the school property.

It should be noted that the Antler Lodge Plat of 1909 grants and dedicates to the public the “use for ordinary purposes the streets and highways shown...” and would therefore, should not require any vacation or lot line adjustment, as CBMC 17.36.040 of the Institutional Zoning District states, “Existing structures, at the time of adoption of the ordinance codified in this title, shall maintain their setbacks. Where parking occurs in the setback area, such use may continue.”

### **Re-designating Antler Street and Beaver Street to a single lane and “One Way”**

Traffic flow, with or without the 15 feet re-allocated, along the Antler and Beaver Street rights of way might not accommodate two lanes of traffic along with parking, so various options are being considered. Taking into consideration the parking management for the facility, shared uses and on-street and public off-street parking that might be cross-utilized will drive future decisions.

These traffic movement and operation concerns will be considered by the Public Works Staff and Committee as the project develops and more details are known and should not have zoning ramifications.

### **RECOMMENDATION**

Cannon Beach Municipal Code CBMC 17.78.010(B) states that “Requirements for types of buildings and uses not specifically listed herein shall be determined by the planning commission based upon the requirements of comparable uses listed.” This November Planning Commission Work Session provides a forum for the Planning Commission to make a determination of Off-Street Parking requirements for such uses so that the applicant has an understanding of the variance to be requested at a future date.

### **List of Attachments**

- A Project Schematic Maps Exhibits A & B of the CBE project area;
- B Zoning Verification Analysis for the Cannon Beach Elementary School Rejuvenation Project, Memorandum, Staff produced, dated October 21, 2022;
- C Cannon Beach Elementary Rejuvenation Project Requested Variance for Reduction in Off-Street Parking Requirements, Project Memorandum, Dustin Johnson, Project Architect, CIDA, dated November 14, 2022;
- D Cannon Beach Elementary School Off-Street Parking Analysis;



# CITY OF CANNON BEACH

January 6, 2023

**V 23-01**, CIDA, on behalf of the City of Cannon Beach, for a variance request to exempt the subject site from meeting the minimum off-street parking requirements established by Cannon Beach Municipal Code Chapter 17.78.020 in favor of alternate methods of transit and parking. The property is located at 268 Beaver Street (Tax Lot 4200, 4101, 4301, 4100 and 4000 Map 51020CB) in an Institutional (IN) Zone. The request will be reviewed under Cannon Beach Municipal Code, Sections 17.78.020, Off-street parking requirements.

Dear Property Owner,

Cannon Beach Zoning Ordinance requires notification to property owners within 100 feet, measured from the exterior boundary, of any property which is the subject of the proposed applications. Your property is located within 100 feet of the above-referenced property or you are being notified as a party of record.

Please note that you may submit a statement either in writing or orally at the hearing, supporting or opposing the proposed action. Your statement should address the pertinent criteria, as stated in the hearing notice. Statements in writing must be received by the date of the hearing.

Enclosed are copies of the public hearing notice, a description of how public hearings are conducted and a map of the subject area. Should you need further information regarding the relevant Zoning Ordinance, Subdivision Ordinance or Comprehensive Plan criteria, please contact Cannon Beach City Hall at the address below, or call Emily Bare at (503) 436-8054 or email [bare@ci.cannon-beach.or.us](mailto:bare@ci.cannon-beach.or.us).

Sincerely,

Jennifer Barrett  
City Recorder

Enclosures:    Notice of Hearing  
                    Conduct of Public Hearings  
                    Map of Subject Area

**NOTICE OF PUBLIC HEARING  
CANNON BEACH PLANNING COMMISSION**

The Cannon Beach Planning Commission will hold a public hearing on **Thursday, January 26, 2023 at 6:00 p.m.** at City Hall, 163 E Gower Street, Cannon Beach, regarding the following:

**V 23-01**, CIDA, on behalf of the City of Cannon Beach, for a variance request to exempt the subject site from meeting the minimum off-street parking requirements established by Cannon Beach Municipal Code Chapter 17.78.020 in favor of alternate methods of transit and parking. The property is located at 268 Beaver Street (Tax Lot 4200, 4101, 4301, 4100 and 4000 Map 51020CB) in an Institutional (IN) Zone. The request will be reviewed under Cannon Beach Municipal Code, Sections 17.78.020, Off-street parking requirements.

**AA 23-01**, on behalf of Dana Cardwell, for an administrative appeal of the City's approval of a Development Permit, DP# 22-19, for the extension of a stormwater management system in the Forest Lawn right-of-way adjacent to Tax Lot# 4100, Map 51030DA), a Residential Medium Density (R2) zoned property. The request will be reviewed pursuant to Cannon Beach Municipal Code, Section 17.88.180, review consisting of additional evidence or de novo review and applicable sections of the Zoning Ordinance.

All interested parties are invited to attend the hearings and express their views. Statements will be accepted in writing or orally at the hearing. Failure to raise an issue at the public hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

Correspondence should be mailed to the Cannon Beach Planning Commission, Attn. Community Development, PO Box 368, Cannon Beach, OR 97110 or via email at [planning@ci.cannon-beach.or.us](mailto:planning@ci.cannon-beach.or.us). Written testimony received one week prior to the hearing will be included in the Planning Commissioner's meeting materials and allow adequate time for review. Materials and relevant criteria are available for review at Cannon Beach City Hall, 163 East Gower Street, Cannon Beach, or may be obtained at a reasonable cost. Staff reports are available for inspection at no cost or may be obtained at a reasonable cost seven days prior to the hearing. Questions regarding the applications may be directed to Jeffrey Adams, 503-436-8040, or at [adams@ci.cannon-beach.or.us](mailto:adams@ci.cannon-beach.or.us).

The Planning Commission reserves the right to continue the hearing to another date and time. If the hearing is continued, no further public notice will be provided. The hearings are accessible to the disabled. Contact City Manager, the ADA Compliance Coordinator, at (503) 436-8050, if you need any special accommodations to attend or to participate in the meeting. TTY (503) 436-8097. Publications may be available in alternate formats and the meeting is accessible to the disabled.



Jeffrey S. Adams, PhD  
Director of Community Development

Posted/Mailed: 1/6/23

NOTICE TO MORTGAGEE, LIEN-HOLDER, VENDOR OR SELLER:  
PLEASE PROMPTLY FORWARD THIS NOTICE TO THE PURCHASER



**CONDUCT OF PUBLIC HEARINGS BEFORE  
CANNON BEACH CITY COUNCIL and PLANNING COMMISSION**

- A. At the start of the public hearing, the Mayor or Planning Commission Chair will ask the following questions to ensure that the public hearing is held in an impartial manner:
1. Whether there is a challenge to the jurisdiction of the City Council or Planning Commission to hear the matter;
  2. Whether there are any conflicts of interest or personal biases to be declared by a Councilor or Planning Commissioner;
  3. Whether any member of the Council or Planning Commission has had any ex parte contacts.
- B. Next, the Mayor or Planning Commission Chair will make a statement which:
1. Indicates the criteria which apply to the action;
  2. Cautions those who wish to testify that their comments must be related to the applicable criteria or other criteria in the Comprehensive Plan or Municipal Code that the person testifying believes apply;
  3. States that failure to raise an issue in a hearing, or failure to provide statements or evidence sufficient to afford the decision makers an opportunity to respond to the issue precludes appeal based on that issue;
  4. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The City Council or Planning Commission shall grant such request by continuing the public hearing or leaving the record open for additional written evidence or testimony.
- C. The public participation portion of the hearing will then proceed as follows:
1. Staff will summarize the staff report to the extent necessary to enable those present to understand the issues before the Council or Planning Commission.
  2. The Councilors or Planning Commissioners may then ask questions of staff.
  3. The Mayor or Planning Commission Chair will ask the applicant or a representative for any presentation.
  4. The Mayor or Planning Commission Chair will ask for testimony from any other proponents of the proposal.
  5. The Mayor or Planning Commission Chair will ask for testimony from any opponents of the proposal.
  6. Staff will be given an opportunity to make concluding comments or respond to additional questions from Councilors or Planning Commissioners.
  7. The Mayor or Planning Commission Chair will give the applicant and other proponents an opportunity to rebut any testimony of the opponents.
  8. Unless continued, the hearing will be closed to all testimony. The Council or Planning Commission will discuss the issue among themselves. They will then either make a decision at that time or continue the public hearing until a specified time.

NOTE: Any person offering testimony must first state their name, residence, and **mailing address** for the record. If representing someone else, the speaker must state whom he represents.



**Disclaimer:** The information contained in this GIS application is NOT AUTHORITATIVE and has NO WARRANTY OR GUARANTEE assuring the information presented to you is correct. GIS applications are intended for a visual display of data and do not carry legal authority to determine a boundary or the location of fixed works, including parcels of land. They are intended as a location reference for planning, infrastructure management and general information only. The City of Cannon Beach assumes no liability for any decisions made or actions taken or not taken by the user of the GIS application. The City of Cannon Beach provides this GIS map on an "as is" basis without warranty of any kind, expressed or implied, including but not limited to warranties of merchantability or fitness for a particular purpose, and assumes no liability for any errors, omissions, or inaccuracies in the information provided.



TAXLOTKEY	SITUS_ADD OWNER_LI	STREET_AD	PO_BOX	CITY	STATE	ZIP_CODE
51020CB04301		Cannon Beach City of				
51020CB04375		Spruce McCarthy / 805 NW Skyline Crest		Portland	OR	97229
51020CB04000		City of Cannon Beach				
51020CB04101		City of Cannon Beach				
51020CB03351-387		Fir Cannon Be	PO Box 398	398 Cannon Be	OR	97110-0398
51020CB03300		Cannon Be	PO Box 368	368 Cannon Be	OR	97110-0368
51019DA03372		N Spru Selner Pete	PO Box 142	1428 Cannon Be	OR	97110-1428
51020CB04371		N Spru Keller Ging	PO Box 987	987 Cannon Be	OR	97110
51020CB04379-381		Sp Sequoia Inv 601 SW 2nd Ave Ste #2		Portland	OR	97204-3158
51020CB05277		Beaver Harding Vic	PO Box 138	1386 Cannon Be	OR	97110
51020CB05267-269		Be Cannon Be	PO Box 398	398 Cannon Be	OR	97110-0398
51020CB04200		City of Cannon Beach				
51020CB04001		Cannon Be	PO Box 368	368 Cannon Be	OR	97110-0368
51019DA03400		Cannon Be	PO Box 368	368 Cannon Be	OR	97110-0368
51020CB04268		Beaver Cannon Beach City of				
51020CB05700		Cannon Beach City of				
51019DA00300		Cannon Beach City of				
51020CB05273		Beaver Eyerman Ci	8404 NE Holladay St	Portland	OR	97220



# Cannon Beach Planning Commission

## Staff Report:

PUBLIC HEARING AND CONSIDERATION OF **AA 23-01**, DANA CARDWELL ADMINISTRATIVE APPEAL OF THE CITY'S APPROVAL OF A DEVELOPMENT PERMIT, DP# 22-19, FOR THE EXTENSION OF A STORMWATER MANAGEMENT SYSTEM IN THE FOREST LAWN RIGHT OF WAY ADJACENT TO TAXLOT# 51030DA04100, A RESIDENTIAL MEDIUM DENSITY (R2) ZONED PROPERTY. THE REQUEST WILL BE REVIEWED PURSUANT TO MUNICIPAL CODE, SECTION 17.88.180, REVIEW CONSISTING OF ADDITIONAL EVIDENCE OR DE NOVO REVIEW AND APPLICABLE SECTIONS OF THE ZONING ORDINANCE.

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**Agenda Date:** January 26, 2023

**Prepared By:** Jeffrey S. Adams, PhD

## GENERAL INFORMATION

### NOTICE

Public notice for this January 26, 2023 Public Hearing is as follows:

A. Notice was mailed and posted at area Post Offices on January 6th, 2023;

### DISCLOSURES

Any disclosures (i.e. conflicts of interest, site visits or ex parte communications)?

### EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on December 29, 2022 unless otherwise noted.

#### **"A" Exhibits – Application Materials**

**A-1** Administrative Appeal Application, dated December 28, 2022 and stamped Paid on December 29, 2022;

**A-2** Administratively Approved Development Permit, DP# 22-19, signed and issued on December 16, 2022;

#### **"B" Exhibits – Agency Comments**

None received as of this writing;

#### **"C" Exhibits – Cannon Beach Supplements**

**C-1** Wetlands Re-delineation, John van Staveren, Pacific Habitat Services, Inc., approved and issued by Department of State Lands on June 8, 2021;

**C-2** Original Delineation, prepared by Shapiro and Associates, Inc., December 10, 1992;

- C-3** Van Staveren Comments Regarding Stormwater influence on southern portion of Tax Lot 4100 on Forest Lawn Drive, Cannon Beach, dated September 1, 2021;
- C-4** Karen La Bonte, Public Works Director, letter to neighboring property owner, Quail Cove, LLC, c/o Rosanne Dorsey, April 29, 2021;
- C-5** Administratively Approved Development Permit, DP# 22-17, signed and issued on ;
- C-6** Development Agreement between the City of Cannon Beach and DavePatrick, LLC, signed on November 29, 2022;

#### **“D” Exhibits – Public Comment**

- D-1** Mark Gibson, Email correspondence, received January 8, 2023;
- D-2** William Reiersgaard, Email correspondence, received January 16, 2023;
- D-3** David Pietka, Letter, received January 18, 2023;
- D-4** Susan Glarum, Letter via Email, received January 18, 2023;

### **SUMMARY & BACKGROUND**

The appellant, Dana Cardwell, is appealing the administrative decision to approve a Development Permit (DP# 22-19), issued December 16, 2022, authorizing the extension of the City’s stormwater management system, in the Forest Lawn right-of-way, adjacent to Taxlot# 51030DA0401.

The City of Cannon Beach received the notice of appeal for an administrative decision, on December 29, 2022, where it was stamped paid and received by the City on the same date, within the 14 consecutive day appeal period.

Ms. Cardwell filed an appeal of the administrative decision, based on the five arguments of appeal which follow:

#### **1. Efforts to Drain & Dry the Wetland, Supported by City Staff**

The first issue raised in the appeal is a concern over perceived efforts to drain and dry the wetland. The appellant does not identify any specific criteria that is implicated by this concern and staff has not identified one either. As indicated by Exhibit C-1, the re-delineation report of the wetland, performed by John van Staveren, Pacific Habitat Services, Inc., approved and issued by Department of State Lands on June 8, 2021, the stormwater management project is not located in a wetland or wetland buffer area. As pointed out in the approved DP# 22-19, the wetland ordinance does not apply to this project. The stormwater extension work will not encroach within the buffer and at its closest point, falls approximately twenty feet from any portion of the delineated wetland.

When compared to the original Wetland Reconnaissance report, prepared by Shapiro and Associates, Inc., December 10, 1992, Exhibit C-2, the re-delineation submitted with this application (Exhibit C-1), and the comments provided by Pacific Habitat Services, Inc., John van Staveren, in Exhibit C-3, shows a movement, or reconfiguration of the wetland area, but there is no evidence that rerouting the illegal stormwater runoff from the neighboring property to an upland location will drain the wetlands. As Mr. van Staveren points out, “Although we know there is a shallow groundwater table associated with the wetland, its hydrology is being augmented by stormwater runoff flowing from developed areas to south and southwest. This is patently clear when comparing the additional wetland discovered in 2020 and the stormwater runoff from the downspout.”

The email correspondence from September 14, 2021, referenced and attached to the appeal, is taken from a lengthy correspondence between the DavePatrick, LLC team and City Staff, with regards to Cannon Beach Municipal Code (CBMC) 13.16.050, which states, “Any person responsible shall maintain nonpublic storm drainage facilities on his or her property so as to prevent flooding or damage to other property not owned or controlled by the person responsible and to prevent injury to any person on property not owned or controlled

by the person responsible.” As with any complaint from a property owner in Cannon Beach over concerns that a neighboring property is out of compliance with Municipal Code, the City contacts the offending property owner, as they did with the letter to the neighboring property owner (see Exhibit C-4) and asks that owner to seek on-site solutions or to hook-up to the City’s system. And just as the City would expect private property owners to deal with the situation, the City also responded to the complaint by the DavePatrick, LLC team that the City was contributing to stormwater runoff to their property, by exploring the existing system and routing options, via easements across private properties or perhaps, extending the stormwater management system north along the Forest Lawn right-of-way. For instance, as the correspondence between the DavePatrick, LLC team and the City indicates, the City began exploration where the stormwater could be removed from the wetland basin and conveyed to the stormwater management system running along Hemlock.

The appellant asks, “does the City have an obligation to move the stormwater?” As the City’s Land Use Attorney, Bill Kabeiseman, has stated, there isn’t a simple answer to such a question, since there are many variables at play, including potentially conflicting legal obligations and whether this stormwater runoff at issue actually contributes to this wetland (as discussed further below, the only expert information the City indicates that it does not contribute substantially). But just as our ordinances direct private property owners to deal with the situation, the City, in a good faith effort, should seek solutions to resolve the situation. The City asked the DavePatrick, LLC team whether a development agreement could alleviate the direct dumping of runoff onto their property from the neighboring property and city right-of-way. The identified solution was an extension of the stormwater management system to a more northerly location was amenable to all parties. DavePatrick, LLC and the City came to terms (see Exhibit C-6), on November 29, 2022, where the applicant agreed to pay the cost of extension of the City’s system to a point identified on the plan, some twenty feet from the delineated wetland and one-hundred and forty feet north, in conjunction with the neighboring property’s connection to the system.

The Agreement states that the “Developer and City believe the stormwater drainage issue could be addressed by extending a 100-foot drainage line to a different outfall location” and the “Developer has agreed to bear the cost of constructing the new drainage line and then dedicate the new infrastructure to the City.”

It should be noted that the applicant could just as well accomplish the same project ten feet to the east, on their own property, through the same development permit procedure, without intruding into the wetland zone and satisfy the same standards, and yet, that extension wouldn’t extend the City’s system and wouldn’t offer citizens future stormwater alternatives.

The contention that this appeal before the Planning Commission provides a ‘neutral body’ for review is indeed one of the reasons the appeal procedures are in place, however, Public Works Director, Karen La Bonte, the City staff identified in the correspondence, is not the reviewing party and has no oversight of the Development Permit decision.

## **2. Conditional-Use Permit Needed, not Development Permit**

The second raised in the appeal is an argument that the extension of the stormwater system requires a conditional use permit and that a development permit was not sufficient. This is not consistent with the City code. As stated above, this project does not take place in the wetland zone; no activity will take place in the delineated wetland, nor will any activity take place in the buffer zone adjacent to the delineated wetland. The City is required to implement the development standards in the code and the City does not have the ability to subjectively make some judgment on whether one project or another has an impact on the wetland area. The Code requires a delineation and five-foot buffer as the zone of protection, not whatever the staff or Planning Commission deems some area as wetland or as area to be protected. If the activity is not within the delineated wetland or buffer zone, then it is not subject to the wetland zone. There must be some objective measure and unless the Cannon Beach Municipal Code is amended to extend such buffers or overlay areas, that distance is five feet from a delineated wetland. Moreover, ‘underground and aboveground utilities’ are permitted outright in the wetland zone and it is only ‘point-source stormwater discharge’ that is a conditional use, not discharge

that is over fifteen feet from the wetland zone. In fact, as shown in Figures 1 and 2 below, staff has monitored the current outfall location and has yet to find evidence that the stormwater flow reaches the existing grade.

Finally, even if the proposed project was located in the wetland, CBMC 17.43.050(I) specifically authorizes excavation for utilities in the delineated wetland and buffer zone, so long as certain standards are met.

**17.43.050 Standards**

*1. Excavation. Excavation in protected wetlands and in wetland buffer areas for any purpose must meet the following standards:*

*\* \* \* \* \**

*2. Excavation for utility trenches in protected wetlands is subject to the following standards:*

- a. Material removed from the trench is either returned to the trench (back-fill), or removed from the wetland area. Side-casting into a protected wetland for disposal of material is not permitted;*
- b. Topsoil shall be conserved during trench construction or maintenance, and replaced on the top of the trench; and*
- c. The ground elevation shall not be altered as a result of utility trench construction or maintenance. Finish elevation shall be the same as starting elevation.*

**3. Lack of Information**

The third issue identified in the appeal is entitled “lack of information” and identifies specific information that the appellant believes was not included in the record or with the application. However, the appeal does not identify which criteria the missing information would relate to and as discussed above, it does not appear that there are any. In particular, the appeal begins by asking the distance from the new discharge point to the wetland buffer boundary. Please see the map provided attached to the Development Permit, which provides a detailed plan in relation to the wetland areas. The appeal goes on to identify additional information that appears to be asking that the applicant provide a stormwater management plan. However, the code requires such plans only for new buildings, or additions covering more than two hundred square feet, or expansions of impervious areas. This project adds no new building, addition, or paved or impervious areas. Thus, even if the project were within the wetland overlay zone, which again it is not, a stormwater management plan would not be required.

**4. Application of Wetland Protections**

The fourth issue raised in the appeal is an argument that the wetlands protections that apply within the wetland overlay zone should apply outside of the zone. As discussed above, the standards in a particular zone apply within that particular zone; the City has no justification to apply those standards outside of that zone. This argument forms a mobius strip, where the City seems to be both aiding the applicant in ‘draining the wetland’ and yet, at one and the same time, ‘directly discharging into the wetland,’ by moving the point of discharge of the neighboring property’s stormwater from one location to another. How it drains the wetland while supposedly discharging the very same amount to another location is not supported by any evidence in the record.

At no point will the utility work be ‘5’ or less’ or in ‘extremely close proximity’ to the WO Zone as the appellant states. There will be erosion control fencing placed, as shown on the plan, an additional five feet from the WO Zone.

If the City wishes to protect areas twenty-feet from delineated wetlands, or areas that may contribute at some remove from the wetland zone, there are alternatives available to the City, such as amending the City’s ordinances or buying properties to prevent development in those areas. What the City cannot do is apply standards from a zone to a property that is not within that zone.

## **5. Point Source Discharge**

The fifth and final issue raised in the appeal is that it is possible that the project could result in a point source discharge into the protected wetland. The evidence in the record indicates that the outfall will be located in the right-of-way for Forest Lawn Drive, well outside of the delineated wetland and any buffer zone. It is possible that water from the outfall would eventually make its way into the wetland, but that does not convert that surface flow into a point source discharge into the wetland or the wetland buffer.

## **Conclusion.**

The appellant provides no new evidence that supports that this application falls within a wetland or its buffer zone, nor that it negatively impacts a wetland or drains a wetland. The proposed activity fully complies with the City code and the development permit decision should be upheld.

## **APPLICABLE PROCEDURE**

### **17.88.160 Scope of review.**

A. An appeal of a permit or development permit shall be heard as a de novo hearing.

### **17.88.180 Review consisting of additional evidence or de novo review.**

A. The reviewing body may hear the entire matter de novo; or it may admit additional testimony and other evidence without holding a de novo hearing. The reviewing body shall grant a request for a new hearing only where it finds that:

1. The additional testimony or other evidence could not reasonably have been presented at the prior hearing; or

2. A hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action; and

3. The request is not necessitated by improper or unreasonable conduct of the requesting party or by a failure to present evidence that was available at the time of the previous review.

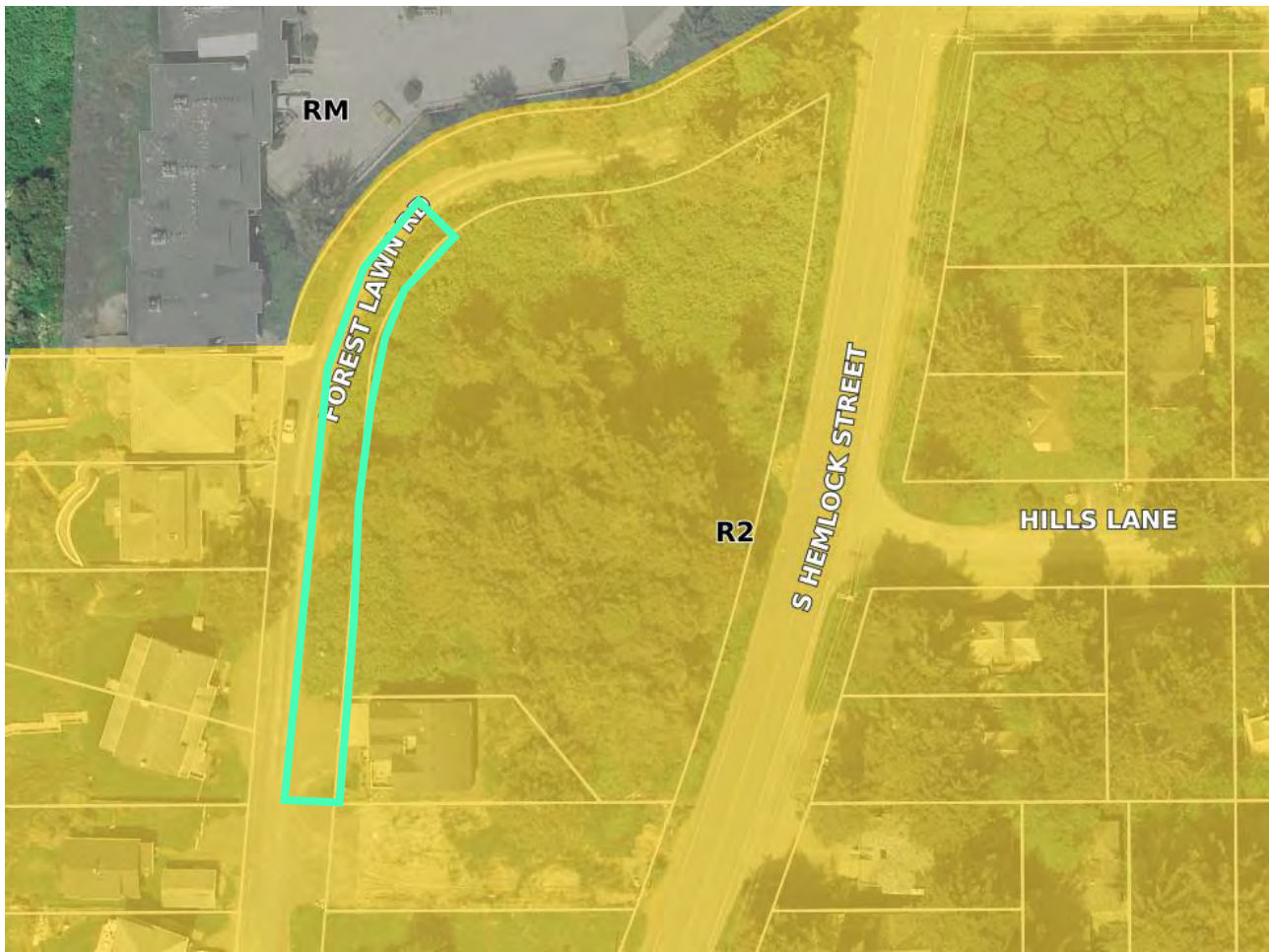
B. Hearings on appeal, either de novo or limited to additional evidence on specific issue(s), shall be conducted in accordance with the requirements of Sections 17.88.010 through 17.88.100.

C. All testimony, evidence and other material from the record of the previous consideration shall be included in the record of the review. (Ord. 90-10 § 1 (Appx. A § 62); Ord. 89-3 § 1; Ord. 79-4 § 1 (10.084))

## **DECISION**

**MOTION:** Having considered the evidence in the record, I move to ***tentatively*** (affirm, reverse or modify in whole or part) the administrative decision to approve Development Permit (DP# 22-19), with regards to the Cardwell appeal application, **AA# 23-01**, as discussed and requests that staff draft findings for review and adoption, at a special called meeting, next Thursday at 6PM, February 2nd, 2023 at City Hall.





**Site Location Map**



**Street View, looking east, from the Forest Lawn right-of-way**





**Figure 1: Current Outfall**



**Figure 2: Close-up of Current Outfall**





**Figure 3: View from neighboring property to wetland zone**



**Figure 4. View along neighboring property walkway in setback**





**Figure 5: Neighboring property drainage outfall**





DEC 29 2022

Received

## CITY OF CANNON BEACH

## NOTICE OF APPEAL - ADMINISTRATIVE DECISION

Appellant's Name: Dana Cardwell  
Email Address: danacardwell@outlook.com  
Mailing Address: P.O. Box 1305  
Cannon Beach, OR 97110  
Telephone: 303-941-9570

1. Appeal of Administrative Decision by Robert St. Clair, regarding: DP #22-19

as stated in letter dated December 16, 2022

2. Specific grounds relied upon for the appeal, including any Zoning Ordinance criteria or standards that you consider to be relevant:

This matter requires a conditional-use permit rather than a development permit. Please see attached 5 pages for additional grounds and reasoning.

Please attach additional pages, if needed, and any other relevant information.

FEE: \$600.00

Appellant Signature: Dana Cardwell Date: 12-28-22

For Staff Use Only:

Date Appeal Received: 12-11-2022 By: Jessie Pineda  
Appeal Fee Paid: \$600 cash Receipt No.: 25-029841

Fee:

803 - Planning \$600

(Last revised March 2021)

PO Box 368 Cannon Beach, Oregon 97110 • (503) 436-8042 • TTY (503) 436-8097 • FAX (503) 436-2050  
www.ci.cannon-beach.or.us • planning@ci.cannon-beach.or.us

City of Cannon Beach  
Finance Department

DEC 29 2022

PAID

## **Background**

This appeal is filed in connection with Development Permit #22-19, permitting the extension of the stormwater line adjacent to Taxlot #51030DA04100 which is a Wetland Lot of Record. DP #22-19 relates to a development permit administratively approved by City Staff on December 16, 2022, that allows the developer/owner of Taxlot #51030DA04100 to relocate the existing storm water discharge point 200' to the northern end of the Wetland Lot of Record. This action would redirect existing storm water discharge from the upland portion of the Wetland Lot of Record/ Wetland Overlay Zone to the lowland portion.

The concerns are many and noted below.

### **1. Efforts to Drain & Dry the Wetland, Supported by City Staff**

The overreaching concern with any development on this lot and in particular with this permit is that the wetland will be systematically drained and destroyed over several years. An extension and relocation of existing stormwater to the far end of the lowland portion of the WO Zone would likely dry the upland portion and create more upland for the developer to build on over the next few years. The wetland can be re-delineated again in 2026, allowing for the possibility of an enlarged upland delineation and more buildable land in the wetland. Granting of this permit aids the efforts to dry the wetland and gain more buildable area.

There is email communication in the public record between the developer's agent and City Staff attesting to this effort. The email dated September 14, 2021 (copy attached) states "Obviously, the benefit of doing it [moving the stormwater discharge point] is we could tell if the work helps dry out the lot the way you had hoped..." This communication clearly demonstrates the developer's desire to dry the wetland and understanding and facilitation of that desire by the City Staff member.

I believe an appeal of this permit is necessary to ensure the matter is reviewed by a neutral body such as the Planning Commission and removed from the discretion of City staff. Review of this matter by the Planning Committee will resolve any ethical concerns and

appearance of favoritism towards the developer on the part of City staff.

## **2. Conditional-Use Permit Needed, not Development Permit**

The work approved in the permit directly and exclusively impacts the Wetland Overlay Zone. With this permit, stormwater along Forest Law is being redirected from its current discharge spot (directly adjacent the upland area) to a new discharge spot (directly adjacent the lowland area). This relocation no doubt alters the hydrology of the WO Zone. The primary reason for this permit is to relocate water in the WO Zone. Because this permit directly and exclusively impacts the WO Zone a Conditional-Use permit is needed, not a mere Development permit. Cannon Beach Code provisions related to the protection of wetlands, including the necessity of conditional-use permitting for projects impacting wetlands should apply to the work approved under this permit.

I believe an appeal of this permit to the Planning Commission is necessary to ensure appropriate review and permitting of this proposed work. Specifically, a conditional-use permit should be required, not a mere development permit. City staff inappropriately granted approval of this work via a development permit when a conditional-use permit is needed.

## **3. Lack of Information**

There is a lack of information and specificity regarding the intended work. In particular, how far from the wetland buffer boundary will the new discharge point be? From the drawings provided in the permit it looks to be 5' or less but it is difficult to tell. Will the wetland buffer be surveyed and located on-site prior to any work? Does McEwen intend to pipe or ditch the stormwater at it's outfall? Or are alternative stormwater management practices being put to use? Will there be a vault, pump or catchment basin? All of these questions are unanswered and have significant bearing on the impacts to the WO Zone.

There is also a lack of information as to why this permit or work is needed. Whatever the reason, it should be noted by both the developer and City staff.

The public record makes note of the developer's claim that the City is illegally discharging stormwater onto his property (the WO Zone). Without more information, it appears the developer is demanding the City resolve this issue by moving the stormwater to a location more agreeable to his development plans. If this is the case, any such brokered agreement should be reviewed by the Planning Commission not decided by City staff. Neutral body review is necessary.

Relatedly, does the City have an obligation to move the stormwater? What is the historical record related to this stormwater discharge? Perhaps City stormwater discharge onto a wetland is not illegal as claimed by the developer. Perhaps developer should not be granted a stormwater line extension or perhaps a 50'-75' stormwater line extension resolves the issue better than a 200' extension. Again, the reasoning behind this permit needs to be reviewed by a neutral body and not decided administratively.

For all of the reasons set forth in this Paragraph 3, I believe an appeal of this permit to the Planning Commission is necessary to ensure the matter is reviewed by a neutral body under the appropriate standards.

#### **4. Application of Wetland Protections**

The permit at issue states that all work will take place outside the WOZone and therefore the wetland protections set forth in the Cannon Beach Code do not apply. Because the work is being conducted in the right-of-way and slightly outside the WO Zone, City staff believe that conditional-use permitting is not required and Cannon Beach Code provisions 17.43.040 and 17.43.045 (pertaining to wetlands) don't apply. This interpretation of the Code seems disingenuous and contrary to the spirit of the law. Even though the actual work may be conducted outside the WO Zone (perhaps only by 5' or less), the direct impact of the work is within the WO Zone. The

stormwater will still discharge directly into the wetland. The new line and discharge point are purposefully outside the WO Zone in an attempt to avoid application of the wetland protections in the Code. The intent of the Code is to protect wetlands. The intent of this permit is to disregard and work-around the protections provided wetlands in the Code. Given the extremely close proximity of the proposed work to the WO Zone, the lack of detailed information in the permit, and the direct impact to the abutting WO Zone, I believe an appeal of this permit is necessary so that the matter can be reviewed by the Planning Commission as envisioned by the Code.

## **5. Point Source Discharge**

As noted above, the permit is general in nature and missing specifics regarding the proposed project. The strip of land where the proposed work is to take place is a tight space that runs along Forest Lawn and the wetland. From observation, it seems near impossible that a discharge point will actually fit into this space and it seems likely that the discharge point may be much closer to the WO Zone than indicated in the drawing. It's a guessing game without more information. If McEwen intends to pipe or ditch the storm water it is considered point source at the outfall. Point source discharge of stormwater into the wetland is a conditional-use and cannot be approved with a mere development permit. Point source discharge, even if only a few feet or inches from a WOZone should be considered a conditional-use. For these reasons, this matter must be heard by the Planning Commission and warrants an appeal.

## **Summary**

I strongly disagree with the assertions made by City staff in DP#22-19. The results of the proposed work wholly affect the WO Zone. As such, conditional-use permitting should be required for this work and Cannon Beach Code provisions pertaining to wetlands should apply. Please accept this appeal and allow the Planning Commission to review the merits of DP#22-19 and the proposed stormwater relocation.



WB2679/5  
https://www.aarpmedicareplans.com/content/aarp  
https://www.aarpmedicareplans.com/content/aarp  
...possibility)

On Tue, Sep 14, 2021 at 12:00 PM Karen La Bonte <[labonte@ci.cannon-beach.or.us](mailto:labonte@ci.cannon-beach.or.us)> wrote:

Jaime,

Based on our last discussion when Jeff and I were out, I thought you were somewhat undecided as to having us start now or wait until you had a better idea as to how this was going to go based on your proposed building plans and the Planning Commission. Obviously, the benefit of doing it now is we could tell if the work helps dry out the lot the way you had hoped, and we could give the neighbor a specific time that she needed to be ready to have her work done (by McEwen I believe) so she could hook up to our storm system.

I guess I was waiting for you to give me the green light that you were ready for me to move forward, and you'd have the specific area marked as to where we were extending it to. If you're ready, then we'll make plans to do the work as quickly as we can work it into our schedule. *Please send me photos of the marked area so we are clear on where you want the drain extended to.*

Please confirm.

Karen



Karen La Bonte  
Public Works Director

City of Cannon Beach  
p: 503.436.8068 | tty: 503.436.8097 | f: 503.436.7  
a: 163 E. Gower St. | PO Box 368 | Cannon Beach,  
97110

w: [www.ci.cannon-beach.or.us](http://www.ci.cannon-beach.or.us) | e: [labonte@ci.cannon-beach.or.us](mailto:labonte@ci.cannon-beach.or.us)





BEFORE THE CITY OF CANNON BEACH

IN THE MATTER OF A DEVELOPMENT	)	
PERMIT FOR AN EXTENSION OF THE	)	
STORMWATER MANAGEMENT SYSTEM ADJACENT	)	FINDINGS OF FACT,
TO TAXLOT# 51030DA04100 APPROVING THE	)	CONCLUSIONS, AND
REQUEST AND ADOPTING FINDINGS	)	ORDER DP #22-19

ZONE: Residential Medium Density (R2)


APPLICANT: Bob McEwan Construction Inc.  
P.O. Box 2845  
Gearhart, OR 97138

The above-named applicant applied to the City for review and approval of a development permit for the purpose of installing an extension of the stormwater management system adjacent to Taxlot 51030DA04101, along the Forest Lawn right-of-way.

The project area is adjacent to a delineated wetland, however the submitted plans indicate that all work will take place outside of the wetland and its buffer areas. The City of Cannon Beach orders that this request for approval of a development permit is granted subject to conditions, and adopts the findings of fact, conclusions and conditions contained in attachment A.

This decision may be appealed to the Planning Commission by an affected party by filing an appeal with the City within fourteen days of this date.

DATED: December 16, 2022

  
\_\_\_\_\_  
Robert St. Clair  
Planner



## **EXHIBIT "A"**

### **FINDINGS OF FACT**

#### **TAXLOT 4100, FOREST LAWN DR. STORMWATER MANAGEMENT SYSTEM – DP#22-19**

<b>PROPERTY DESCRIPTION:</b>	Forest Lawn Right-of-Way, adjacent to Taxlot# 51030DA04100
<b>PROPERTY LOCATION:</b>	Non-addressed undeveloped parcel on Forest Lawn Dr.
<b>APPLICANT:</b>	Bob McEwan Construction Inc.
<b>PROPERTY OWNER:</b>	Patrick/Dave LLC
<b>ACTION:</b>	Approved

### **BACKGROUND**

The approved project for the installation of no more than 200 linear feet of subsurface stormwater distribution piping, extending the City of Cannon Beach's stormwater management system. The purpose of this project is to relocate the stormwater outfall located approximately 30 feet north of the property's southwestern corner on Forest Lawn Dr. to a location 140 to 175 linear feet northward. This project will be carried out in conjunction with stormwater management system improvements at 1603 Forest Lawn Dr., authorized by Development Permit 22-17. No material will be removed as a result of this project and any displaced soils will be used to cover newly installed piping.

### **APPLICABLE CRITERIA**

The following sections of the Cannon Beach Municipal Code are applicable to this application:

- 17.43.045 – Uses and Activities Permitted Outright in Wetland Buffer Areas
- 17.63.030 – Grading and Erosion Control Permit
- 17.92.010 – Development Permit
- 17.88.110 – Decision

### **FINDINGS**

- (1) Section 17.43.030(C) states that underground or above ground utilities are an activity permitted outright in wetlands. The stormwater management system at Taxlot 4100 meets the definition of an underground utility. Based on the best available information provided in the Pacific Habitat Service's recent wetland study, dated March 19, 2021, which was prepared for an unrelated development proposal on the subject property this project is not within a delineated wetland or wetland buffer area.

*17.43.035 Uses and Activities Permitted Outright in Wetland Buffer Areas*



*The following uses and activities may be permitted in wetland buffer areas of the WO zone, subject to the issuance of a development permit in accordance with Section 17.92.010, and subject to applicable standards, if permitted outright in the base zone.*

*C. Underground or above-ground utilities.*

- (2) Section 17.62.030(A)(1)(a) states that a development permit is required for any amount of clearing, grading, filling within one hundred feet of a stream, watercourse, or wetland. Based on the wetland delineation prepared for the subject property, this project will be within 100 feet of a wetland and its buffer area.

#### *17.62.030 Grading and Erosion Control Permit*

*A. Development Permit Required.*

- 1. Persons proposing to clear, grade, excavate or fill land (regulated activities) shall obtain a development permit as prescribed by this chapter unless exempted by Section 17.62.040. A development permit is required where:*
  - a. The proposed clearing, grading, filling, or excavation is located within one hundred feet of a stream, watercourse or wetland.*

- (3) Section 17.92.010.C.2 defines the administrative review procedure for Type 2 Development Permits.

- 1. Administrative review of Type 2 development permits shall follow the following procedure:*
  - a. The development permit application shall be reviewed by planning department against the applicable standards contained in this title and the application shall either be approved, approved with conditions, or denied.*
  - b. A decision shall be made within twenty days of the receipt of a complete application.*
  - c. The decision of the planning department shall be by signed written order. The order shall comply with Section 17.88.110(B). The written order is the final decision on the matter and the date of the order is the date that it is signed. The order becomes effective on the expiration of the appeal period, unless an appeal has been filed.*
  - d. The applicant shall be notified of the decision in accordance with the provisions of Section 17.88.130. Property owners within one hundred feet of the exterior boundary of the subject property shall likewise be notified.*
  - e. A decision on the development permit may be appealed to the planning commission in accordance with Section 17.88.140.*

- (4) Section 17.88.110 defines the decision making process for land use applications.

*Following the procedure described in Section 17.88.060, the hearing body shall approve, approve with conditions*



*or deny the application or if the hearing is in the nature of an appeal, affirm, affirm with modifications or additional conditions, reverse or remand the decision that is on appeal.*

- A. The decision of the hearing body shall be by a written order signed by the chair or designee.*
- B. The order shall incorporate finding of facts and conclusions that include:*
  - 1. A statement of the applicable criteria and standards against which the proposal was tested;*
  - 2. A statement of the facts which the hearing body relied upon in establishing compliance or noncompliance with each applicable criteria or standards and briefly state how those facts support the decision;*
  - 3. In the case of a denial, it shall be sufficient to address only those criteria upon which the applicant failed to carry the burden of proof or, when appropriate, the facts in the record that support denial.*
- C. The written order is the final decision on the matter and the date of the order is the date that it is signed. The order becomes effective on the expiration of the appeal period, unless an appeal has been filed. (Ord. 90-10 § 1 (Appx. A § 64); Ord. 89-3 § 1; Ord. 79-4 § 1 (10.070))*

## **CONCLUSIONS**

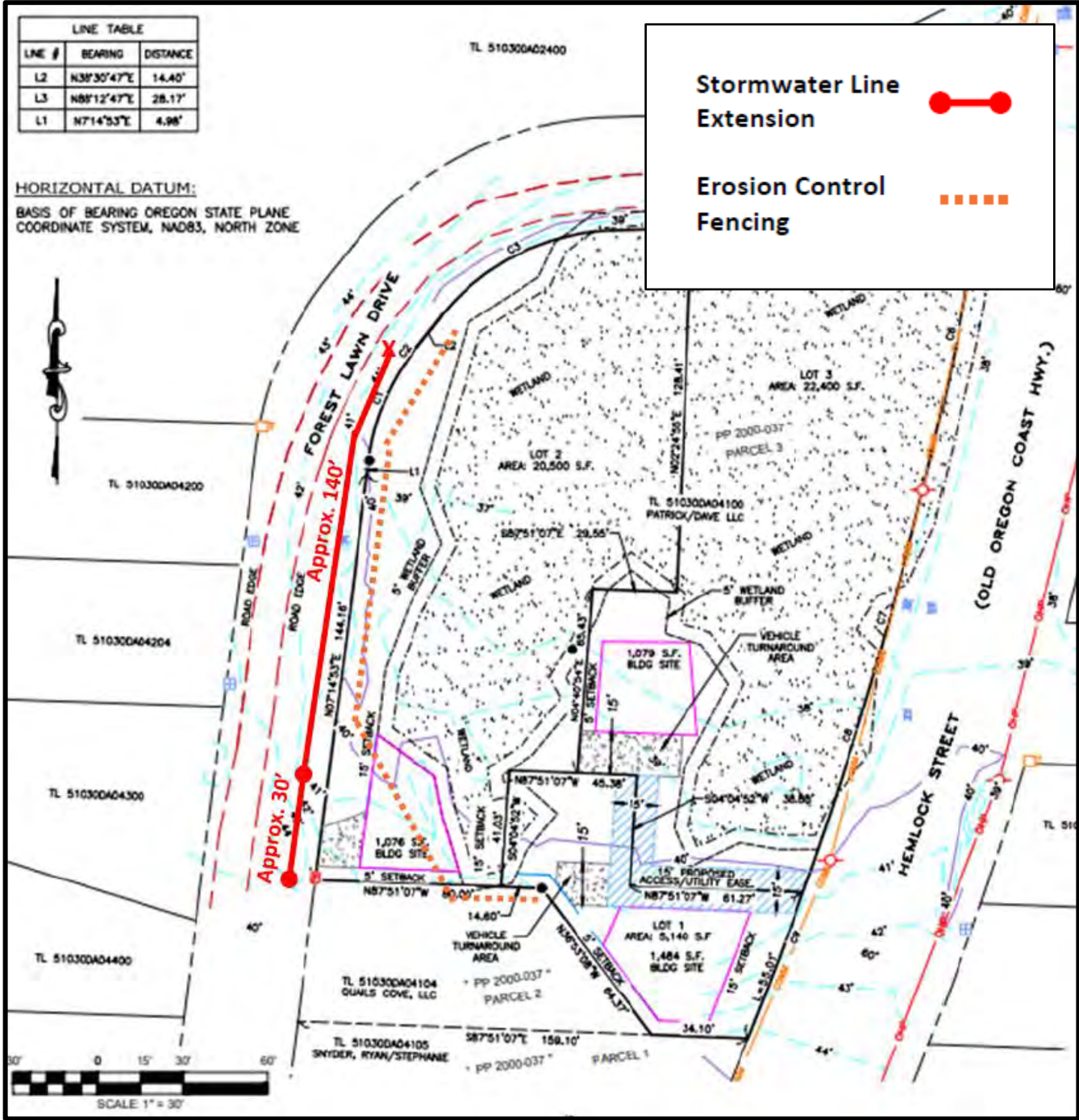
The Community Development Department has reviewed the application and determined that it meets the applicable criteria, upon the following conditions:

## **CONDITIONS**

- 1. Work shall be restricted to upland portions of the subject property and not take place within the delineated wetland on Taxlot 4100 or its buffer areas;
- 2. A site plan of the erosion control measures shall be approved by the Public Works Director prior to ground disturbance;
- 3. Any tree removal applications or any tree protection zone fencing, where necessary, shall be approved and established prior to ground disturbance;
- 4. Work shall be completed prior to January 1, 2023, where possible, and any ground disturbance of exposed surfaces during the wet season (November 1 through April 30) should be temporarily planted with grasses, or protected with erosion control blankets, hydro-mulch, or hand broadcast straw a minimum of 3 inches thick and punched into the soil;
- 5. The use of motorized equipment shall be limited to the hours of 7:00am and 7:00pm per Municipal Code Section 8.16.
- 6. The City shall be notified 48 hours prior to on-site disturbance.



# Site Map





**Wetland Delineation**  
**Tax Lot 4100**  
**Cannon Beach, Oregon**  
(Township 5N, Range 10W, Section 30DA,  
Tax Lot 4100, Clatsop County)

**Prepared for**

**Patrick/Dave, LLC**  
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PHS Project Number: 6978

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## I. INTRODUCTION

Pacific Habitat Services, Inc. (PHS) identified and delineated the limits of wetland on Tax Lot 4100, which is located southwest of the intersection of Forest Lawn Drive and South Hemlock Street in the western portion of Cannon Beach, Oregon (Township 5 North, Range 10 West, Section 30DA, Clatsop County). This report describes the results of PHS's wetland delineation fieldwork at the site. Figures, including a map depicting the location of wetland, are in Appendix A. Data sheets documenting existing conditions are provided in Appendix B. Ground-level photos of the study area are included in Appendix C. A discussion of the wetland delineation methodology (for the client) is provided in Appendix D.

## II. RESULTS AND DISCUSSION

### A. Landscape Setting and Land Use

The subject site is an undeveloped 1.10-acre property located within a residential area of west Cannon Beach. Forest Lawn Drive borders the western edge of the site and South Hemlock Street is located along the eastern edge of the property. These two roads intersect at the northeastern corner of the property. A house is located offsite and adjacent to the southwestern edge of the property, and a mowed lawn borders the southeastern edge. Site topography gradually slopes downward from the southwestern corner of the property to the northern portion of the site. The southern half of the site includes a mature stand of Sitka spruce and red alder, whereas the northern half of the property primarily consists of a scrub-shrub plant community.

### B. Site Alterations

As noted above, the parcel is undeveloped. PHS did not note any recent alterations at the time of the wetland delineation fieldwork.

### C. Precipitation Data and Analysis

PHS conducted the wetland delineation fieldwork and collected data to document the presence/absence of jurisdictional wetlands on the site on December 9, 2020. Table 1 compares the average monthly precipitation to the observed monthly precipitation as recorded at the Seaside, Oregon WETS station, in the months prior to the fieldwork. This table also compares the observed precipitation to the average precipitation range as identified in the NRCS WETS table for the Seaside, Oregon WETS station.

**Table 1. Comparison of average and observed monthly precipitation at the Seaside, Oregon WETS station prior to the December 2020 wetland delineation fieldwork.**

Month	Average Precipitation <sup>1</sup>	30% Chance Will Have		Observed Precipitation <sup>2</sup>	Percent of Normal
		Less Than Average <sup>1</sup>	More Than Average <sup>1</sup>		
September	2.84	1.03	3.43	4.39	155
October	6.07	3.37	7.40	6.33	104
November	11.32	8.25	13.33	9.19	81

<sup>1</sup> NRCS WETS Table for the Seaside, Oregon WETS Station source: <http://agacis.rcc-acis.org/?fips=41007>

<sup>2</sup> Observed precipitation source: <http://agacis.rcc-acis.org/?fips=41007>

As shown in Table 1, observed precipitation was above average and above the normal range for September. In October, the observed precipitation was slightly above average and on the higher end of the normal range. Observed precipitation in November was slightly below average and closer to the lower end of the normal range. Total observed precipitation for the water-year (October 1, 2019 through September 30, 2020) was 70.92 inches, which is approximately 94 percent of normal for this same period (75.30 inches). Consistent with the high and near normal amounts of precipitation in the months preceding the wetland delineation fieldwork, precipitation for the water-year was also near normal.

## **D. Methods**

PHS identified jurisdictional wetland within the subject site based on the presence of wetland hydrology, hydric soils and hydrophytic vegetation, in accordance with the Routine On-site Determination, as described in the *Corps of Engineers Wetland Delineation Manual, Wetlands Research Program Technical Report Y-87-1* (“The 1987 Manual”) and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region*. PHS conducted the wetland delineation fieldwork and collected data to document the presence/absence of jurisdictional wetland on the site on December 9, 2020. PHS dug and examined soil pits throughout the study area, and based on the investigation, determined that there is one wetland present within the property.

## **E. Description of All Wetlands**

PHS identified one wetland primarily located within the northern half of the site, which also extended into the southwestern and southeastern portions of the property. A description of the wetland is provided below.

### **Wetland A**

Wetland A (29,618 sf / 0.68 ac) occurs within topographically low-lying areas in the northern half of the site, and as a mosaic wetland adjacent to slightly higher portions of the property in the southern half of the site. In a couple of areas along the eastern edge of the site, the wetland extends beyond the eastern property boundary and continues along South Hemlock Street. The Cowardin classification of the wetland is palustrine scrub-shrub (PSS) in the northern half of the site, and a mosaic of PSS and palustrine emergent (PEM) wetland in the southwestern and southeastern portions of the site; the hydrogeomorphic (HGM) classification is Slope.

Sample Points 1, 4 and 5 characterize the wetland plant community within Wetland A. The canopy layer includes Sitka spruce (*Picea sitchensis*, FAC) and red alder (*Alnus rubra*, FAC). The shrub understory and groundcover include Hooker’s willow (*Salix hookeriana*, FACW), four-line honeysuckle (*Lonicera involucrata*, FAC), Himalayan blackberry (*Rubus armeniacus*, FAC), tall false rye grass (*Schedonorus arundinaceus*, FAC), Western lady fern (*Athyrium cyclosorum*, FAC), field horsetail (*Equisetum arvense*, FAC), slough sedge (*Carex obnupta*, OBL), and water parsley (*Oenanthe sarmentosa*, OBL).

Soils within the wetland meet the criteria for the following indicators: redox dark surface, depleted matrix, and histic epipedon (muck). Soils within the wetland were generally saturated to the surface at the time of PHS’s site visit. A high water table, saturation and geomorphic position provided evidence

of wetland hydrology. A seasonally high water table, precipitation and surface runoff from the adjacent surrounding areas contribute to the hydrology of this wetland.

It should be noted that other factors contributing to the hydrology of this wetland include the following:

- Stormwater runoff from the roof of a house that is located immediately to the south of the site appears to drain directly onto the site (see Photo E in Appendix C).
- A City stormwater pipe that is connected to a catch basin on the west side of Forest Lawn Drive extends beneath the road and drains stormwater onto the site. This stormwater comes from several houses along Forest Lawn Drive and the road itself. The stormwater flows into a couple of catch basins along Forest Lawn Drive, south of the site, then continues to flow to the north through a storm pipe and drains into the catch basin on the west side of the road that outfalls onto the site.
- Another City storm pipe is located at the north end of the property along South Hemlock Street. This is a 12-inch storm pipe that extends from the site, is culverted beneath the road to the east side of the street where it is connected to the City's storm system. The storm pipe has been clogged with dirt and debris, which does not allow stormwater to drain off the site, as intended, and as such, likely impounds stormwater at the northern end of the site.

Sample Points 2, 3, 6 and 7 characterize non-wetland areas adjacent to Wetland A. The plant communities in these areas include Sitka spruce, Western hemlock (*Tsuga heterophylla*, FACU), salal (*Gaultheria shallon*, FACU), Evergreen huckleberry (*Vaccinium ovatum*, FACU), English Holly (*Ilex aquifolium*, FACU), Western sword fern (*Polystichum munitum*, FACU), Northern bracken fern (*Pteridium aquilinum*, FACU), false lily-of-the-valley (*Maianthemum dilatatum*, FAC), Pacific dewberry (*Rubus ursinus*, FACU), and English ivy (*Hedera helix*, FACU). With the exception of Sample Point 3, the soils at these sample points are not hydric, and evidence of wetland hydrology was not observed at any of these sample points.

## **F. Deviation from Local Wetland Inventory**

The Local Wetland Inventory map shows one large wetland area, with the southern portion consisting of a wetland/upland mosaic. PHS also found the southern portion of the wetland to contain a mosaic; however, the overall size of our delineated wetland is smaller than that shown in the LWI. This discrepancy, in part may be because the LWI mapping may have been limited to off-site determinations because of a lack of site access authorization, which limits "ground-truthing" to confirm interpretations derived from off-site maps and information.

## **G. Mapping Method**

PHS flagged the wetland boundaries with blue flagging tape and sample points with lime-green flagging tape. The boundary and sample point flags were survey-located by S & F Land Services. The accuracy of the survey, sample points and tax lot boundaries is sub-centimeter.

## **H. Additional Information**

None.



## I. Results and Conclusions

PHS delineated one jurisdictional wetland (Wetland A: 29,618 sf / 0.68 ac) within Tax Lot 4100.

## J. Required Disclaimer

This report documents the investigation, best professional judgment and conclusions of the investigators. It is correct and complete to the best of our knowledge. It should be considered a Preliminary Jurisdictional Determination of wetlands and other waters and used at your own risk unless it has been reviewed and approved in writing by the Oregon Department of State Lands in accordance with OAR 141-090-0005 through 141-090-0055.

## III. REFERENCES

Adamus, P.R. and D. Field. 2001 *Guidebook for Hydrogeomorphic (HGM)-based Assessment of Oregon Wetland and Riparian Study areas. Willamette Valley Ecoregion, Riverine Impounding and Slopes/Flats Subclasses*. Oregon Division of State Lands, Salem, OR.

GoogleEarth Map, 2020. Aerial Photo, June 2017

Lichvar, R.W., D.L. Banks, W.N. Kirchner, and N.C. Melvin. 2016. *State of Oregon 2016 Plant List. The National Wetland Plant List: 2016 Wetland Ratings*. Phytoneuron 2016-30: 1-17. Published 28 April 2016. ISSN 2153 733X  
[http://rsgisias.crrel.usace.army.mil/nwpl\\_static/data/DOC/lists\\_2016/States/pdf/OR\\_2016v1.pdf](http://rsgisias.crrel.usace.army.mil/nwpl_static/data/DOC/lists_2016/States/pdf/OR_2016v1.pdf)

Munsell Color, 2010. *Munsell Soil Color Charts*. Grand Rapids, Michigan. 2009 Year Revised, 2010 Production.

Natural Resources Conservation Service (NRCS) Agricultural Science Information System (AgACIS) for Clatsop County. <http://agacis.rcc-acis.org/?fips=41007>

Natural Resources Conservation Service (NRCS) WETS Table for the Seaside, Oregon WETS Station. Source: <http://agacis.rcc-acis.org/?fips=41007>

Oregon Department of State Lands. September 2001. *Removal-Fill Law (ORS 196.800-196.990) and Removal and Filling in Scenic Waterways (ORS 390.805-390.925)*.

ORMAP tax maps, 2020. <http://www.ormap.net/>

US Army Corps of Engineers, Environmental Laboratory, 1987. *Corps of Engineers Wetland Delineation Manual. Technical Report Y-87-1*.

US Army Corps of Engineers, Environmental Laboratory, 2010. *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0)*.

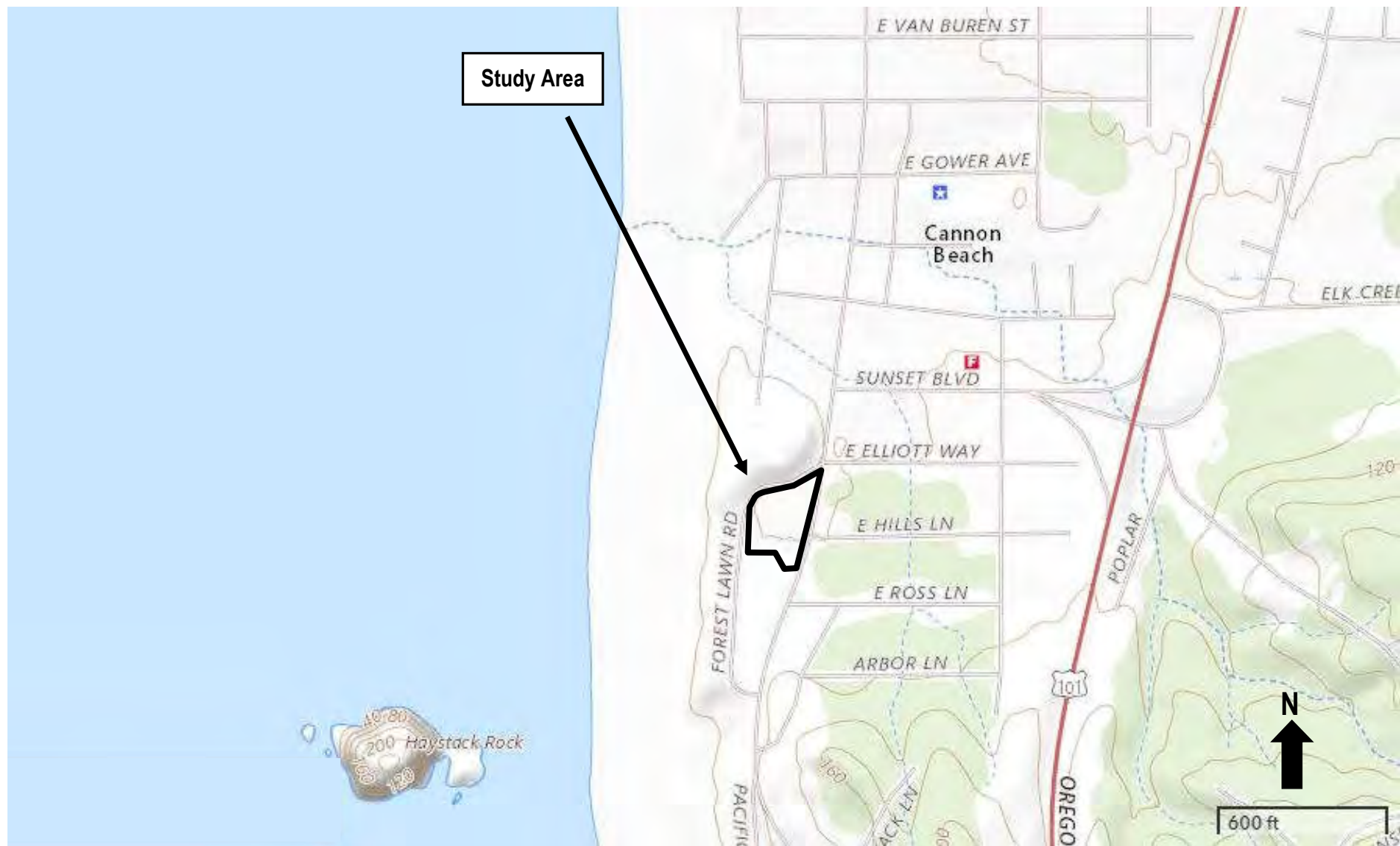
US Department of Agriculture, Natural Resources Conservation Service, 2020. *Web Soil Survey*.

US Geological Survey, 2020. *7.5-minute topographic map, Tillamook Head, Oregon Quadrangle*.

# Appendix A

## Figures





Project #6978  
2/16/2021



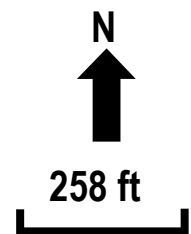
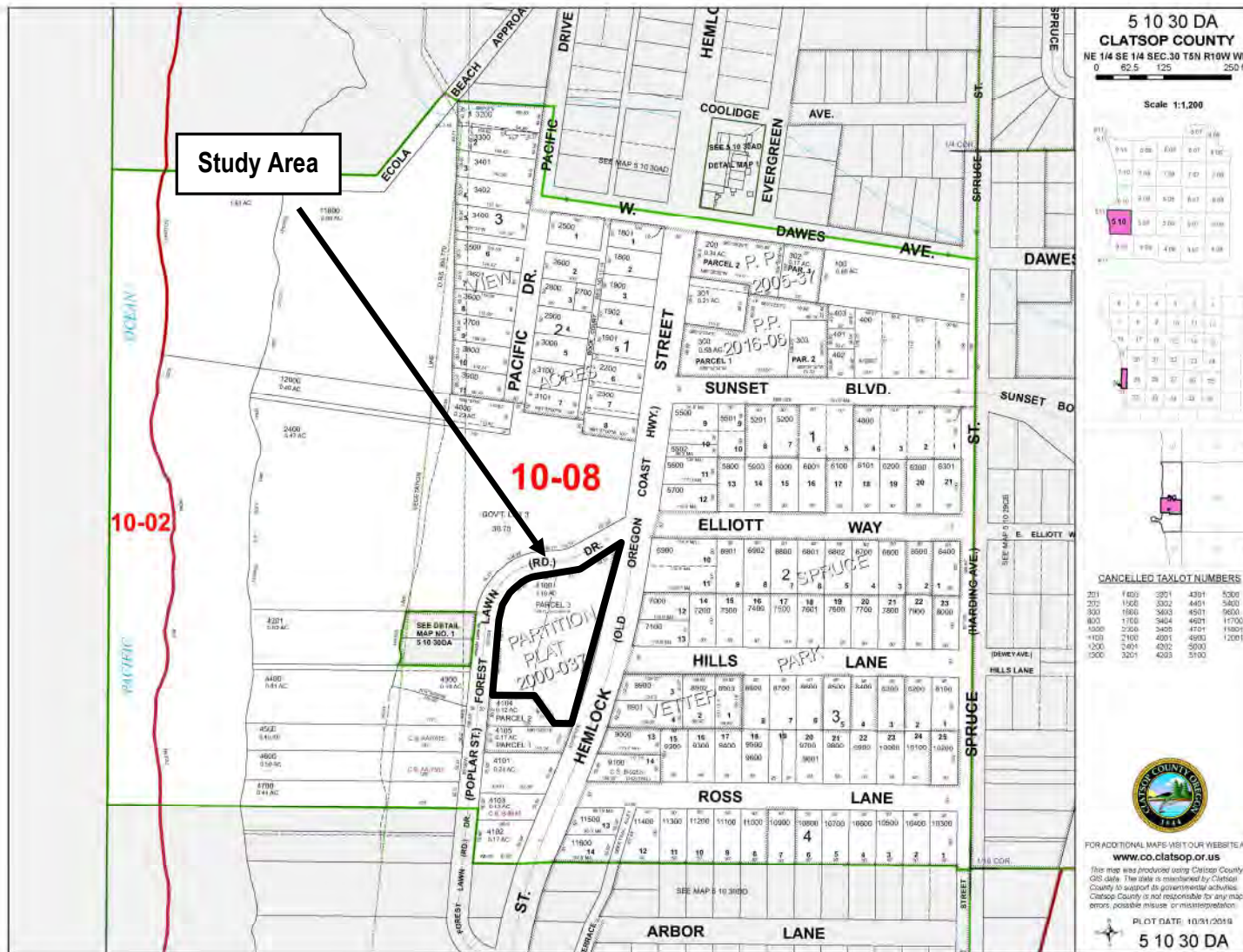
Pacific Habitat Services, Inc.  
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General Location and Topography  
Tax Lot 4100 - Cannon Beach, Oregon  
United States Geological Survey (USGS) Tillamook Head, Oregon 7.5 quadrangle, 2020  
(viewer.nationalmap.gov/basic)

FIGURE

1





Project #6978  
 2/16/2021

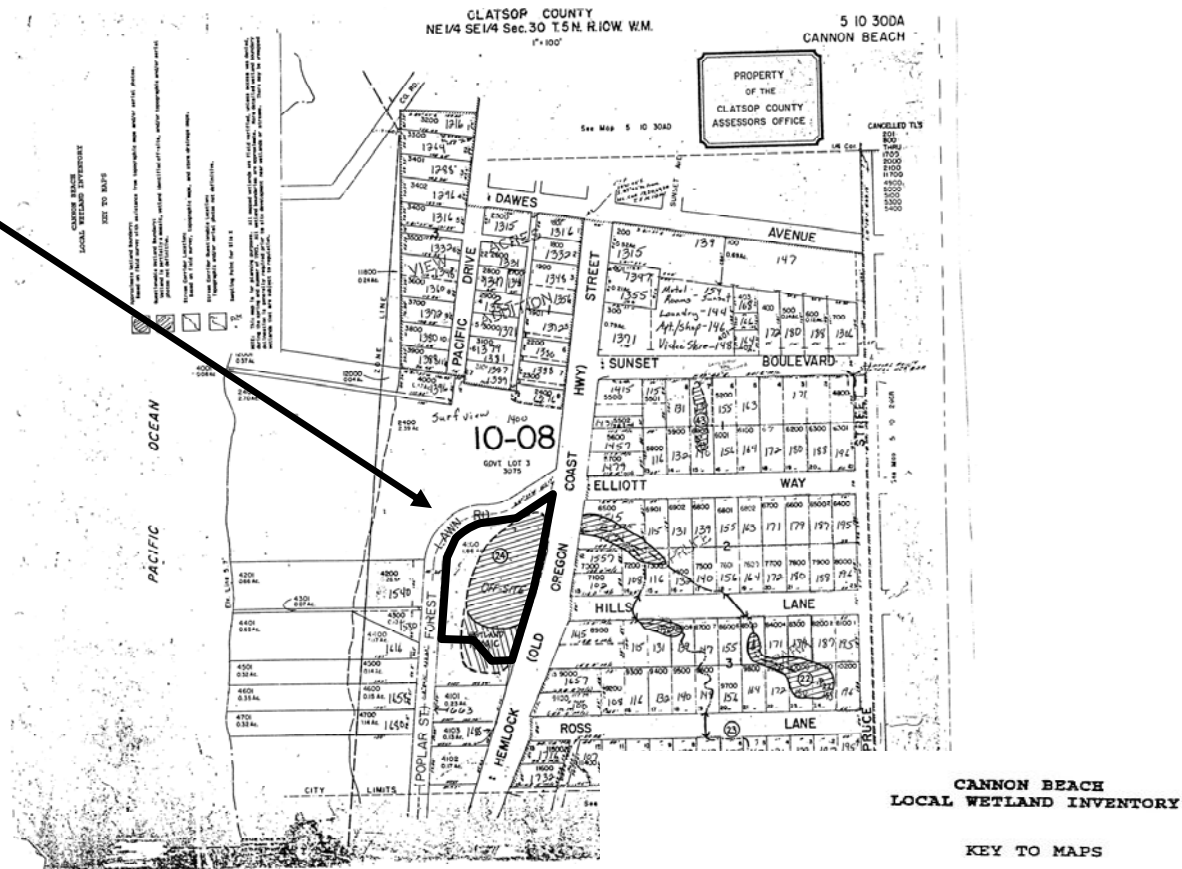


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 Wilsonville, OR 97070

Tax Lot Map  
 Tax Lot 4100 - Cannon Beach, Oregon  
 The Oregon Map (ormap.net)

FIGURE  
**2**

Study Area



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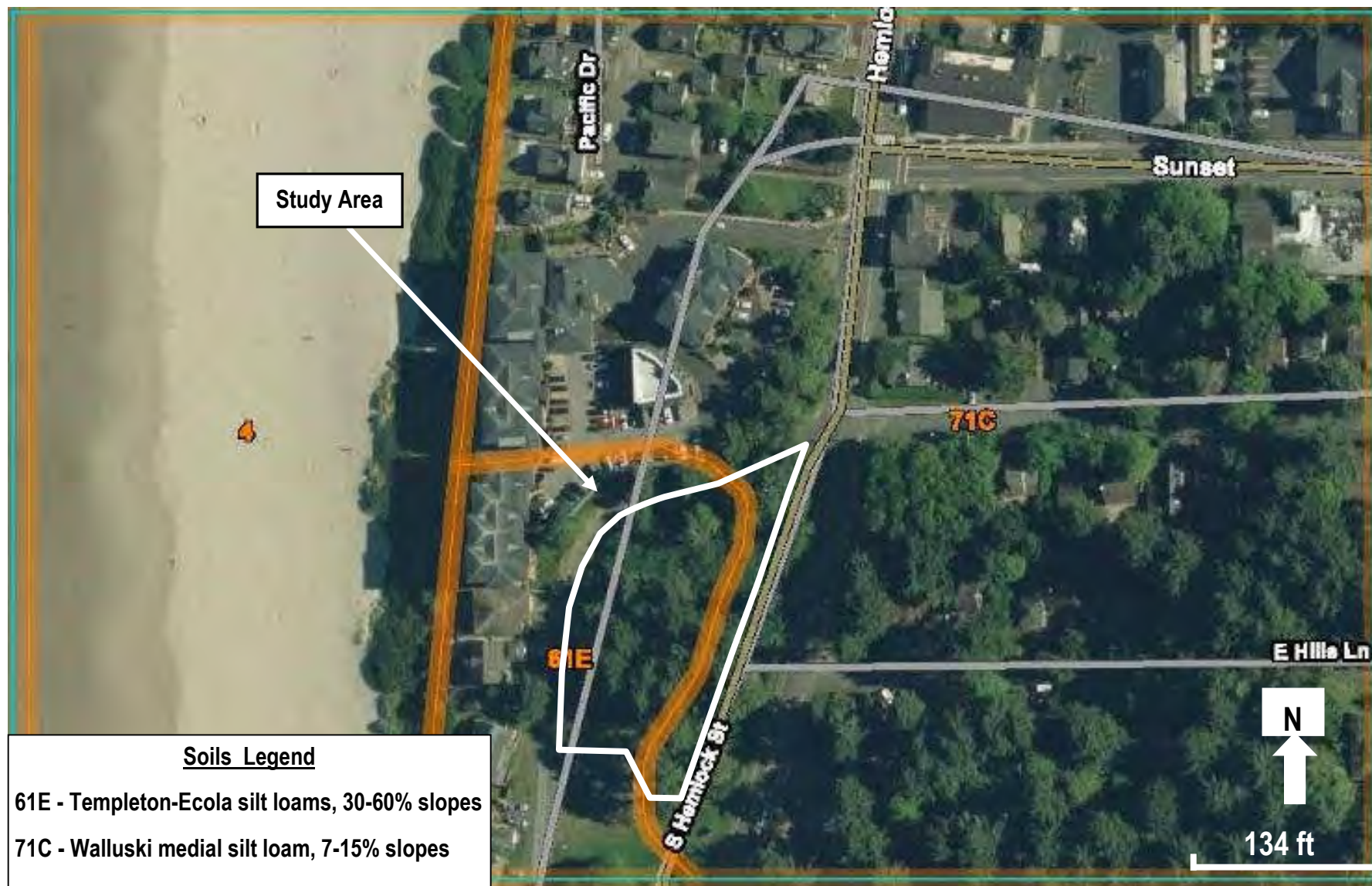
LWI

Tax Lot 4100 - Cannon Beach, Oregon  
Fishman Environmental Services, 1994

FIGURE

3





Project #6978  
2/16/2021



Pacific Habitat Services, Inc.  
9450 SW Commerce Circle, Suite 180  
Wilsonville, OR 97070

Soils  
Tax Lot 4100 - Cannon Beach, Oregon  
Natural Resources Conservation Services, Web Soil Survey, 2020  
(websoilsurvey.sc.egov.usda.gov)

FIGURE

4





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2/16/2021

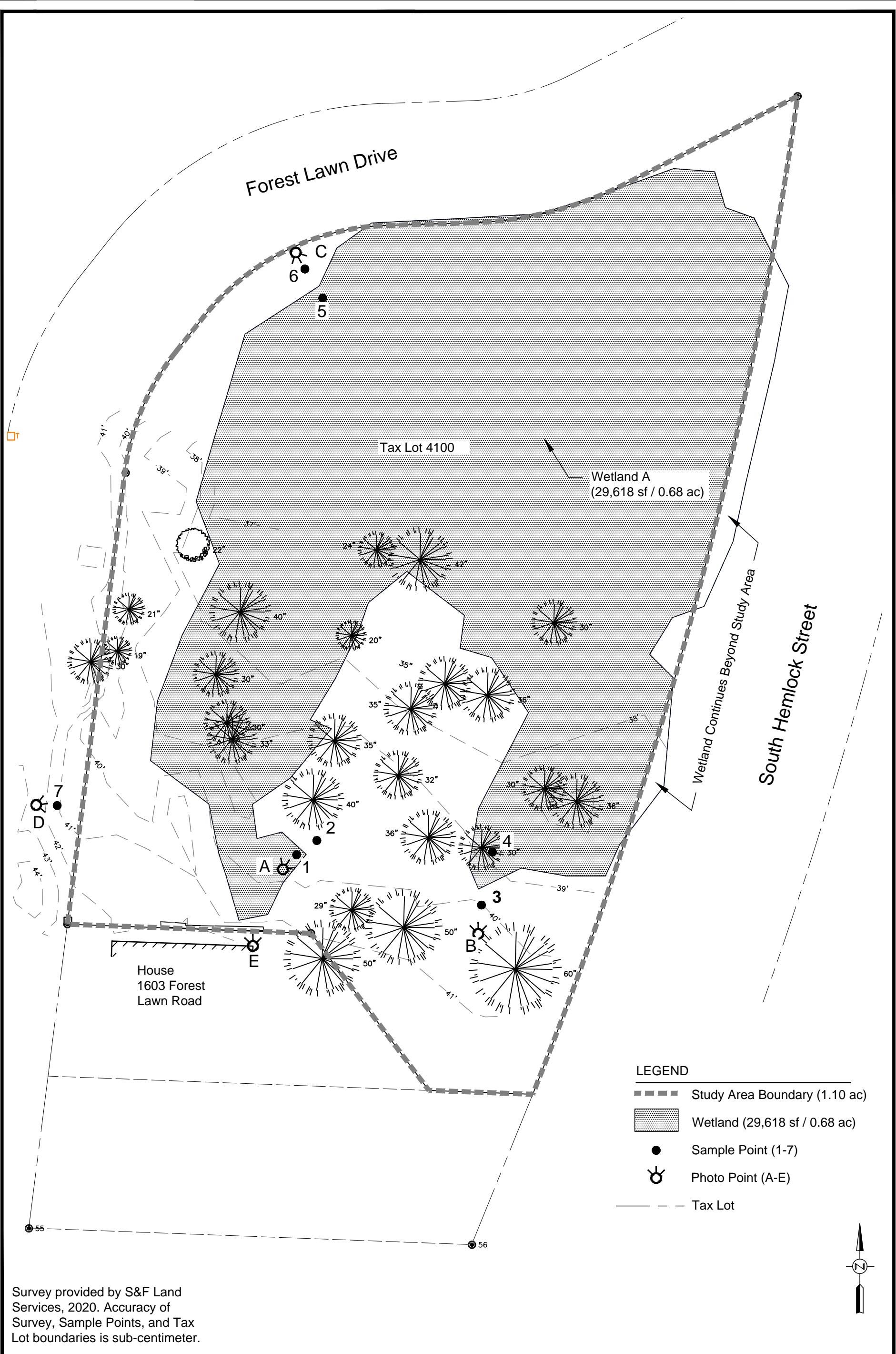


Pacific Habitat Services, Inc.  
9450 SW Commerce Circle, Suite 180  
Wilsonville, OR 97070

Aerial Photo  
Tax Lot 4100 - Cannon Beach, Oregon  
GoogleEarth, 2020

FIGURE

5



Wetland Delineation  
Tax Lot 4100 - Cannon Beach, Oregon

FIGURE  
**6**

3-19-2021

# Appendix B

## Wetland Determination Data Sheets





## WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: Tax Lot 4100 City/County: Cannon Beach/Clatsop Sampling Date: 12/9/2020

Applicant/Owner: Patrick/Dave, LLC State: OR Sampling Point: 1

Investigator(s): CR, SE Section, Township, Range: Section 30DA, Township 5N, Range 10W

Landform (hillslope, terrace, etc.): Flat Local relief (concave, convex, none): None Slope (%): 1

Subregion (LRR): LRR A Lat: 45.8864 Long: -123.9631 Datum: WGS84

Soil Map Unit Name: Templeton-Ecola Silt Loams NWI Classification: None

Are climatic/hydrologic conditions on the site typical for this time of year? Yes X No        (if no, explain in Remarks)

Are vegetation        Soil        or Hydrology X significantly disturbed? Are "Normal Circumstances" present? (Y/N) N

Are vegetation        Soil        or Hydrology        naturally problematic? If needed, explain any answers in Remarks.)

## SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes <u>X</u>	No <u>      </u>	Is Sampled Area within a Wetland? Yes <u>X</u> No <u>      </u>
Hydric Soil Present?	Yes <u>X</u>	No <u>      </u>	
Wetland Hydrology Present?	Yes <u>X</u>	No <u>      </u>	

Remarks:

Stormwater runoff from the roof of a house, located offsite immediately to the south, contributes to the hydrology of this area.

## VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status
<b>Tree Stratum</b> (plot size: <u>      </u> )			
1 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
2 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
3 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
4 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
	<u>0</u>	= Total Cover	
<b>Sapling/Shrub Stratum</b> (plot size: <u>15</u> )			
1 <u>Lonicera involucrata</u>	<u>10</u>	<u>X</u>	<u>FAC</u>
2 <u>Rubus armeniacus</u>	<u>5</u>	<u>X</u>	<u>FAC</u>
3 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
4 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
5 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
	<u>15</u>	= Total Cover	
<b>Herb Stratum</b> (plot size: <u>5</u> )			
1 <u>Schedonorus arundinaceus</u>	<u>60</u>	<u>X</u>	<u>FAC</u>
2 <u>Oenanthe sarmentosa</u>	<u>10</u>	<u>      </u>	<u>OBL</u>
3 <u>Gaultheria shallon</u>	<u>5</u>	<u>      </u>	<u>FACU</u>
4 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
5 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
6 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
7 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
8 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
	<u>75</u>	= Total Cover	
<b>Woody Vine Stratum</b> (plot size: <u>15</u> )			
1 <u>Hedera helix</u>	<u>15</u>	<u>X</u>	<u>FACU</u>
2 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
	<u>15</u>	= Total Cover	
% Bare Ground in Herb Stratum <u>      </u>			
Remarks:			

**Dominance Test worksheet:**

Number of Dominant Species  
That are OBL, FACW, or FAC: 3 (A)

Total Number of Dominant Species Across All Strata: 4 (B)

Percent of Dominant Species  
That are OBL, FACW, or FAC: 75% (A/B)

**Prevalence Index Worksheet:**

Total % Cover of	Multiply by:
OBL Species <u>      </u>	x 1 = <u>0</u>
FACW species <u>      </u>	x 2 = <u>0</u>
FAC Species <u>      </u>	x 3 = <u>0</u>
FACU Species <u>      </u>	x 4 = <u>0</u>
UPL Species <u>      </u>	x 5 = <u>0</u>
Column Totals <u>0</u> (A)	<u>0</u> (B)

Prevalence Index = B/A = #DIV/0!

**Hydrophytic Vegetation Indicators:**

X 1- Rapid Test for Hydrophytic Vegetation

       2- Dominance Test is >50%

       3-Prevalence Index is ≤ 3.0<sup>1</sup>

       4-Morphological Adaptations<sup>1</sup> (provide supporting data in Remarks or on a separate sheet)

       5- Wetland Non-Vascular Plants<sup>1</sup>

       Problematic Hydrophytic Vegetation<sup>1</sup> (Explain)

<sup>1</sup>Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

**Hydrophytic Vegetation Present?** Yes X No

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (Inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
0-4	10YR 2/1	100					Silt Loam	High organics
4-12	10YR 2/1	100					Sandy Loam	High organics

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains.

<sup>2</sup>Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)				Indicators for Problematic Hydric Soils <sup>3</sup> :			
	Histosol (A1)		Sandy Redox (S5)		2 cm Muck (A10)		
	Histic Epipedon (A2)		Stripped Matrix (S6)		Red Parent Material (TF2)		
	Black Histic (A3)		Loamy Mucky Mineral (F1) (except MLRA 1)		Very Shallow Dark Surface (TF12)		
	Hydrogen Sulfide (A4)		Loamy Gleyed Matrix (F2)		X Other (explain in Remarks)		
	Depleted Below Dark Surface (A11)		Depleted Matrix (F3)				
	Thick Dark Surface (A12)		Redox Dark Surface (F6)				
	Sandy Mucky Mineral (S1)		Depleted Dark Surface (F7)				
	Sandy Gleyed Matrix (S4)		Redox Depressions (F8)				

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type:  
Depth (inches):

Hydric Soil Present? YesXNo

Remarks:  
Soils are very dark with no evidence of oxidation. Hydric criteria satisfied by presence of hydrology for at least 14 days during the growing season.

HYDROLOGY

Wetland Hydrology Indicators:							
Primary Indicators (minimum of one required; check all that apply)				Secondary Indicators (2 or more required)			
	Surface Water (A1)		Water stained Leaves (B9) (Except MLRA 1, 2, 4A, and 4B)		Water stained Leaves (B9) (MLRA1, 2, 4A, and 4B)		
X	High Water Table (A2)						
X	Saturation (A3)		Salt Crust (B11)		Drainage Patterns (B10)		
	Water Marks (B1)		Aquatic Invertebrates (B13)		Dry-Season Water Table (C2)		
	Sediment Deposits (B2)		Hydrogen Sulfide Odor (C1)		Saturation Visible on Aerial Imagery (C9)		
	Drift Deposits (B3)		Oxidized Rhizospheres along Living Roots (C3)		Geomorphic Position (D2)		
	Algal Mat or Crust (B4)		Presence of Reduced Iron (C4)		Shallow Aquitard (D3)		
	Iron Deposits (B5)		Recent Iron Reduction in Plowed Soils (C6)		Fac-Neutral Test (D5)		
	Surface Soil Cracks (B6)		Stunted or Stressed Plants (D1) (LRR A)		Raised Ant Mounds (D6) (LRR A)		
	Inundation Visible on Aerial Imagery (B7)		Other (Explain in Remarks)		Frost-Heave Hummocks (D7)		
	Sparsely Vegetated Concave Surface (B8)						

Field Observations:

Surface Water Present? YesNoXDepth (inches):

Water Table Present? YesXNoDepth (inches):8

Saturation Present? YesXNoDepth (inches):4

Wetland Hydrology Present? YesXNo

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

## WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: Tax Lot 4100 City/County: Cannon Beach/Clatsop Sampling Date: 12/9/2020  
 Applicant/Owner: Patrick/Dave, LLC State: OR Sampling Point: 2  
 Investigator(s): CR, SE Section, Township, Range: Section 30DA, Township 5N, Range 10W  
 Landform (hillslope, terrace, etc.): Flat Local relief (concave, convex, none): None Slope (%): 1  
 Subregion (LRR): LRR A Lat: 45.8864 Long: -123.9631 Datum: WGS84  
 Soil Map Unit Name: Templeton-Ecola Silt Loams NWI Classification: None

Are climatic/hydrologic conditions on the site typical for this time of year? Yes X No \_\_\_\_\_ (if no, explain in Remarks)

Are vegetation \_\_\_\_\_ Soil \_\_\_\_\_ or Hydrology \_\_\_\_\_ significantly disturbed? Are "Normal Circumstances" present? (Y/N) Y

Are vegetation \_\_\_\_\_ Soil \_\_\_\_\_ or Hydrology \_\_\_\_\_ naturally problematic? If needed, explain any answers in Remarks.)

## SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes <u>X</u>	No _____	Is Sampled Area within a Wetland? Yes _____ No <u>X</u>
Hydric Soil Present?	Yes _____	No <u>X</u>	
Wetland Hydrology Present?	Yes _____	No <u>X</u>	

Remarks:

## VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status	
<b>Tree Stratum</b> (plot size: <u>30</u> )				<b>Dominance Test worksheet:</b>  Number of Dominant Species That are OBL, FACW, or FAC: <u>3</u> (A)  Total Number of Dominant Species Across All Strata: <u>5</u> (B)  Percent of Dominant Species That are OBL, FACW, or FAC: <u>60%</u> (A/B)
1 <u><i>Picea sitchensis</i></u>	<u>70</u>	<u>X</u>	<u>FAC</u>	
2 _____	_____	_____	_____	
3 _____	_____	_____	_____	
4 _____	_____	_____	_____	
	<u>70</u>	= Total Cover		
<b>Sapling/Shrub Stratum</b> (plot size: <u>15</u> )				<b>Prevalence Index Worksheet:</b>  Total % Cover of _____ Multiply by: _____ OBL Species _____ x 1 = <u>0</u> FACW species _____ x 2 = <u>0</u> FAC Species _____ x 3 = <u>0</u> FACU Species _____ x 4 = <u>0</u> UPL Species _____ x 5 = <u>0</u> Column Totals <u>0</u> (A) <u>0</u> (B)  Prevalence Index =B/A = <u>#DIV/0!</u>
1 <u><i>Gaultheria shallon</i></u>	<u>70</u>	<u>X</u>	<u>FACU</u>	
2 <u><i>Picea sitchensis</i></u>	<u>30</u>	<u>X</u>	<u>FAC</u>	
3 _____	_____	_____	_____	
4 _____	_____	_____	_____	
5 _____	_____	_____	_____	
	<u>100</u>	= Total Cover		
<b>Herb Stratum</b> (plot size: <u>5</u> )				<b>Hydrophytic Vegetation Indicators:</b>  _____ 1- Rapid Test for Hydrophytic Vegetation <u>X</u> 2- Dominance Test is >50% _____ 3-Prevalence Index is ≤ 3.0 <sup>1</sup> _____ 4-Morphological Adaptations <sup>1</sup> (provide supporting data in Remarks or on a separate sheet) _____ 5- Wetland Non-Vascular Plants <sup>1</sup> _____ Problematic Hydrophytic Vegetation <sup>1</sup> (Explain) <sup>1</sup> Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.  <b>Hydrophytic Vegetation Present?</b> Yes <u>X</u> No _____
1 <u><i>Schedonorus arundinaceus</i></u>	<u>85</u>	<u>X</u>	<u>FAC</u>	
2 <u><i>Pteridium aquilinum</i></u>	<u>10</u>	_____	<u>FACU</u>	
3 <u><i>Equisetum arvense</i></u>	<u>5</u>	_____	<u>FAC</u>	
4 _____	_____	_____	_____	
5 _____	_____	_____	_____	
6 _____	_____	_____	_____	
7 _____	_____	_____	_____	
8 _____	_____	_____	_____	
	<u>100</u>	= Total Cover		
<b>Woody Vine Stratum</b> (plot size: <u>15</u> )				
1 <u><i>Hedera helix</i></u>	<u>15</u>	<u>X</u>	<u>FACU</u>	
2 _____	_____	_____	_____	
	<u>15</u>	= Total Cover		
% Bare Ground in Herb Stratum _____				

Remarks:



Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (Inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
0-16	10YR 2/1	100					Silt Loam	

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains.

<sup>2</sup>Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)		Indicators for Problematic Hydric Soils <sup>3</sup> :
<input type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> 2 cm Muck (A10)
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Red Parent Material (TF2)
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Loamy Mucky Mineral (F1) (except MLRA 1)	<input type="checkbox"/> Very Shallow Dark Surface (TF12)
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input type="checkbox"/> Other (explain in Remarks)
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input type="checkbox"/> Depleted Matrix (F3)	
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Redox Dark Surface (F6)	
<input type="checkbox"/> Sandy Mucky Mineral (S1)	<input type="checkbox"/> Depleted Dark Surface (F7)	
<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> Redox Depressions (F8)	

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type:  
Depth (inches):

Hydric Soil Present? YesNoX

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:		
Primary Indicators (minimum of one required; check all that apply)		Secondary Indicators (2 or more required)
<input type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water stained Leaves (B9) (Except MLRA 1, 2, 4A, and 4B)	<input type="checkbox"/> Water stained Leaves (B9) (MLRA1, 2, 4A, and 4B)
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Salt Crust (B11)	<input type="checkbox"/> Drainage Patterns (B10)
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Aquatic Invertebrates (B13)	<input type="checkbox"/> Dry-Season Water Table (C2)
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres along Living Roots (C3)	<input type="checkbox"/> Geomorphic Position (D2)
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Shallow Aquitard (D3)
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Plowed Soils (C6)	<input type="checkbox"/> Fac-Neutral Test (D5)
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Stunted or Stressed Plants (D1) (LRR A)	<input type="checkbox"/> Raised Ant Mounds (D6) (LRR A)
<input type="checkbox"/> Surface Soil Cracks (B6)	<input type="checkbox"/> Other (Explain in Remarks)	<input type="checkbox"/> Frost-Heave Hummocks (D7)
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)		
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)		

Field Observations:

Surface Water Present? YesNoXDepth (inches):

Water Table Present? YesXNoDepth (inches):14

Saturation Present? YesXNoDepth (inches):14

Wetland Hydrology Present? YesNoX

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

## WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: Tax Lot 4100 City/County: Cannon Beach/Clatsop Sampling Date: 12/9/2020

Applicant/Owner: Patrick/Dave, LLC State: OR Sampling Point: 3

Investigator(s): CR, SE Section, Township, Range: Section 30DA, Township 5N, Range 10W

Landform (hillslope, terrace, etc.): Flat Local relief (concave, convex, none): None Slope (%): 1

Subregion (LRR): LRR A Lat: 45.8864 Long: -123.9628 Datum: WGS84

Soil Map Unit Name: Walluski Medial Silt Loam NWI Classification: None

Are climatic/hydrologic conditions on the site typical for this time of year? Yes X No        (if no, explain in Remarks)

Are vegetation        Soil        or Hydrology        significantly disturbed? Are "Normal Circumstances" present? (Y/N) Y

Are vegetation        Soil        or Hydrology        naturally problematic? If needed, explain any answers in Remarks.)

## SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes <u>      </u>	No <u>X</u>	Is Sampled Area within a Wetland? Yes <u>      </u> No <u>X</u>
Hydric Soil Present?	Yes <u>X</u>	No <u>      </u>	
Wetland Hydrology Present?	Yes <u>      </u>	No <u>X</u>	
Remarks:			

## VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status	
Tree Stratum (plot size: <u>30</u> )				<b>Dominance Test worksheet:</b>  Number of Dominant Species That are OBL, FACW, or FAC: <u>3</u> (A)  Total Number of Dominant Species Across All Strata: <u>7</u> (B)  Percent of Dominant Species That are OBL, FACW, or FAC: <u>43%</u> (A/B)
1 <u><i>Picea sitchensis</i></u>	<u>60</u>	<u>X</u>	<u>FAC</u>	
2 <u><i>Tsuga heterophylla</i></u>	<u>15</u>	<u>X</u>	<u>FACU</u>	
3 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	
4 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	
	<u>75</u>	= Total Cover		
Sapling/Shrub Stratum (plot size: <u>15</u> )				<b>Prevalence Index Worksheet:</b>  Total % Cover of <u>      </u> Multiply by: <u>      </u> OBL Species <u>      </u> x 1 = <u>0</u> FACW species <u>      </u> x 2 = <u>0</u> FAC Species <u>      </u> x 3 = <u>0</u> FACU Species <u>      </u> x 4 = <u>0</u> UPL Species <u>      </u> x 5 = <u>0</u> Column Totals <u>0</u> (A) <u>0</u> (B)  Prevalence Index =B/A = <u>#DIV/0!</u>
1 <u><i>Lonicera involucrata</i></u>	<u>25</u>	<u>X</u>	<u>FAC</u>	
2 <u><i>Gaultheria shallon</i></u>	<u>20</u>	<u>X</u>	<u>FACU</u>	
3 <u><i>Vaccinium ovatum</i></u>	<u>5</u>	<u>      </u>	<u>FACU</u>	
4 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	
	<u>50</u>	= Total Cover		
Herb Stratum (plot size: <u>5</u> )				<b>Hydrophytic Vegetation Indicators:</b>  <u>      </u> 1- Rapid Test for Hydrophytic Vegetation <u>      </u> 2- Dominance Test is >50% <u>      </u> 3-Prevalence Index is ≤ 3.0 <sup>1</sup> <u>      </u> 4-Morphological Adaptations <sup>1</sup> (provide supporting data in Remarks or on a separate sheet) <u>      </u> 5- Wetland Non-Vascular Plants <sup>1</sup> <u>      </u> Problematic Hydrophytic Vegetation <sup>1</sup> (Explain)  <sup>1</sup> Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.  <b>Hydrophytic Vegetation Present?</b> Yes <u>      </u> No <u>X</u>
1 <u><i>Polystichum munitum</i></u>	<u>30</u>	<u>X</u>	<u>FACU</u>	
2 <u><i>Athyrium cyclosorum</i></u>	<u>25</u>	<u>X</u>	<u>FAC</u>	
3 <u><i>Mianthemum dilatatum</i></u>	<u>1</u>	<u>      </u>	<u>FAC</u>	
4 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	
5 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	
6 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	
7 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	
8 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	
	<u>56</u>	= Total Cover		
Woody Vine Stratum (plot size: <u>15</u> )				
1 <u><i>Hedera helix</i></u>	<u>80</u>	<u>X</u>	<u>FACU</u>	
2 <u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	
	<u>80</u>	= Total Cover		
% Bare Ground in Herb Stratum <u>      </u>				
Remarks:				

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (Inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
0-6	7.5YR 2.5/2	100					Loam	High organics
6-13	5YR 2.5/1	95	7.5YR 2.5/2	5	C	M	Sandy Loam	High organics
13-18	10YR 2/1	100						Fine sandy loam
18-19	10YR 3/3	95	10YR 4/4	5	C	M	Sand	Medium

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains.

<sup>2</sup>Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)		Indicators for Problematic Hydric Soils <sup>3</sup> :
<input type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> 2 cm Muck (A10)
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Red Parent Material (TF2)
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Loamy Mucky Mineral (F1) (except MLRA 1)	<input type="checkbox"/> Very Shallow Dark Surface (TF12)
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input type="checkbox"/> Other (explain in Remarks)
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input checked="" type="checkbox"/> Depleted Matrix (F3)	
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Redox Dark Surface (F6)	
<input type="checkbox"/> Sandy Mucky Mineral (S1)	<input type="checkbox"/> Depleted Dark Surface (F7)	
<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> Redox Depressions (F8)	

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type:

Depth (inches):

Hydric Soil Present? Yes ☒ No ☐

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:		
Primary Indicators (minimum of one required; check all that apply)		Secondary Indicators (2 or more required)
<input type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water stained Leaves (B9) (Except MLRA 1, 2, 4A, and 4B)	<input type="checkbox"/> Water stained Leaves (B9) (MLRA1, 2, 4A, and 4B)
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Salt Crust (B11)	<input type="checkbox"/> Drainage Patterns (B10)
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Aquatic Invertebrates (B13)	<input type="checkbox"/> Dry-Season Water Table (C2)
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres along Living Roots (C3)	<input type="checkbox"/> Geomorphic Position (D2)
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Shallow Aquitard (D3)
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Plowed Soils (C6)	<input type="checkbox"/> Fac-Neutral Test (D5)
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Stunted or Stressed Plants (D1) (LRR A)	<input type="checkbox"/> Raised Ant Mounds (D6) (LRR A)
<input type="checkbox"/> Surface Soil Cracks (B6)	<input type="checkbox"/> Other (Explain in Remarks)	<input type="checkbox"/> Frost-Heave Hummocks (D7)
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)		
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)		

Field Observations:

Surface Water Present? Yes ☐ No ☒ Depth (inches):

Water Table Present? Yes ☒ No ☐ Depth (inches): 17

Saturation Present? Yes ☒ No ☐ Depth (inches): 1

(includes capillary fringe)

Wetland Hydrology Present? Yes ☐ No ☒

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:



## WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: Tax Lot 4100 City/County: Cannon Beach/Clatsop Sampling Date: 12/9/2020

Applicant/Owner: Patrick/Dave, LLC State: OR Sampling Point: 4

Investigator(s): CR, SE Section, Township, Range: Section 30DA, Township 5N, Range 10W

Landform (hillslope, terrace, etc.): Depression Local relief (concave, convex, none): Concave Slope (%): 1

Subregion (LRR): LRR A Lat: 45.8864 Long: -123.9628 Datum: WGS84

Soil Map Unit Name: Walluski Medial Silt Loam NWI Classification: None

Are climatic/hydrologic conditions on the site typical for this time of year? Yes X No \_\_\_\_\_ (if no, explain in Remarks)

Are vegetation \_\_\_\_\_ Soil \_\_\_\_\_ or Hydrology \_\_\_\_\_ significantly disturbed? Are "Normal Circumstances" present? (Y/N) Y

Are vegetation \_\_\_\_\_ Soil \_\_\_\_\_ or Hydrology \_\_\_\_\_ naturally problematic? If needed, explain any answers in Remarks.)

## SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes <u>X</u>	No _____	Is Sampled Area within a Wetland? Yes <u>X</u> No _____
Hydric Soil Present?	Yes <u>X</u>	No _____	
Wetland Hydrology Present?	Yes <u>X</u>	No _____	
Remarks:			

## VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status	
Tree Stratum (plot size: <u>30</u> )				<b>Dominance Test worksheet:</b>
1 <u>Picea sitchensis</u>	<u>30</u>	<u>X</u>	<u>FAC</u>	Number of Dominant Species
2 _____	_____	_____	_____	That are OBL, FACW, or FAC: <u>4</u> (A)
3 _____	_____	_____	_____	Total Number of Dominant
4 _____	_____	_____	_____	Species Across All Strata: <u>7</u> (B)
	<u>30</u>	= Total Cover		Percent of Dominant Species
Sapling/Shrub Stratum (plot size: <u>15</u> )				That are OBL, FACW, or FAC: <u>57%</u> (A/B)
1 <u>Lonicera involucrata</u>	<u>30</u>	<u>X</u>	<u>FAC</u>	<b>Prevalence Index Worksheet:</b>
2 <u>Picea sitchensis</u>	<u>20</u>	<u>X</u>	<u>FAC</u>	Total % Cover of _____ Multiply by: _____
3 <u>Gaultheria shallon</u>	<u>15</u>	<u>X</u>	<u>FACU</u>	OBL Species _____ x 1 = <u>0</u>
4 <u>Ilex aquifolium</u>	<u>5</u>	_____	<u>FACU</u>	FACW species _____ x 2 = <u>0</u>
5 _____	_____	_____	_____	FAC Species _____ x 3 = <u>0</u>
	<u>70</u>	= Total Cover		FACU Species _____ x 4 = <u>0</u>
Herb Stratum (plot size: <u>5</u> )				UPL Species _____ x 5 = <u>0</u>
1 <u>Carex obnupta</u>	<u>100</u>	<u>X</u>	<u>OBL</u>	Column Totals <u>0</u> (A) <u>0</u> (B)
2 _____	_____	_____	_____	Prevalence Index =B/A = <u>#DIV/0!</u>
3 _____	_____	_____	_____	<b>Hydrophytic Vegetation Indicators:</b>
4 _____	_____	_____	_____	1- Rapid Test for Hydrophytic Vegetation
5 _____	_____	_____	_____	<u>X</u> 2- Dominance Test is >50%
6 _____	_____	_____	_____	3-Prevalence Index is ≤ 3.0 <sup>1</sup>
7 _____	_____	_____	_____	4-Morphological Adaptations <sup>1</sup> (provide supporting
8 _____	_____	_____	_____	data in Remarks or on a separate sheet)
	<u>100</u>	= Total Cover		5- Wetland Non-Vascular Plants <sup>1</sup>
Woody Vine Stratum (plot size: <u>15</u> )				Problematic Hydrophytic Vegetation <sup>1</sup> (Explain)
1 <u>Hedera helix</u>	<u>10</u>	<u>X</u>	<u>FACU</u>	<sup>1</sup> Indicators of hydric soil and wetland hydrology must be present, unless
2 <u>Rubus ursinus</u>	<u>5</u>	<u>X</u>	<u>FACU</u>	disturbed or problematic.
	<u>15</u>	= Total Cover		<b>Hydrophytic</b>
% Bare Ground in Herb Stratum _____				<b>Vegetation</b> Yes <u>X</u> No _____
Remarks:				<b>Present?</b>

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (Inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
0-7	10YR 2/2	100					Silt Loam	
7-16	10YR 2/1	60	7.5YR 3/4	40			Silt Loam	Fine-Medium

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains.

<sup>2</sup>Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)		Indicators for Problematic Hydric Soils <sup>3</sup> :
<input type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> 2 cm Muck (A10)
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Red Parent Material (TF2)
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Loamy Mucky Mineral (F1) (except MLRA 1)	<input type="checkbox"/> Very Shallow Dark Surface (TF12)
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input type="checkbox"/> Other (explain in Remarks)
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input type="checkbox"/> Depleted Matrix (F3)	
<input type="checkbox"/> Thick Dark Surface (A12)	<input checked="" type="checkbox"/> Redox Dark Surface (F6)	
<input type="checkbox"/> Sandy Mucky Mineral (S1)	<input type="checkbox"/> Depleted Dark Surface (F7)	
<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> Redox Depressions (F8)	

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type:

Depth (inches):

Hydric Soil Present? Yes ☒ No ☐

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:		
Primary Indicators (minimum of one required; check all that apply)		Secondary Indicators (2 or more required)
<input checked="" type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water stained Leaves (B9) (Except MLRA 1, 2, 4A, and 4B)	<input type="checkbox"/> Water stained Leaves (B9) (MLRA1, 2, 4A, and 4B)
<input checked="" type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Salt Crust (B11)	<input type="checkbox"/> Drainage Patterns (B10)
<input checked="" type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Aquatic Invertebrates (B13)	<input type="checkbox"/> Dry-Season Water Table (C2)
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres along Living Roots (C3)	<input type="checkbox"/> Geomorphic Position (D2)
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Shallow Aquitard (D3)
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Plowed Soils (C6)	<input type="checkbox"/> Fac-Neutral Test (D5)
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Stunted or Stressed Plants (D1) (LRR A)	<input type="checkbox"/> Raised Ant Mounds (D6) (LRR A)
<input type="checkbox"/> Surface Soil Cracks (B6)	<input type="checkbox"/> Other (Explain in Remarks)	<input type="checkbox"/> Frost-Heave Hummocks (D7)
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)		
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)		

Field Observations:

Surface Water Present? Yes ☐ No ☒ Depth (inches):

Water Table Present? Yes ☒ No  Depth (inches):

Saturation Present? Yes ☒ No  Depth (inches):

(includes capillary fringe)

Wetland Hydrology Present? Yes ☒ No ☐

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

## WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: Tax Lot 4100 City/County: Cannon Beach/Clatsop Sampling Date: 12/9/2020

Applicant/Owner: Patrick/Dave, LLC State: OR Sampling Point: 5

Investigator(s): CR, SE Section, Township, Range: Section 30DA, Township 5N, Range 10W

Landform (hillslope, terrace, etc.): Depression Local relief (concave, convex, none): Concave Slope (%): 1

Subregion (LRR): LRR A Lat: 45.8869 Long: -123.9632 Datum: WGS84

Soil Map Unit Name: Templeton-Ecola Silt Loams NWI Classification: None

Are climatic/hydrologic conditions on the site typical for this time of year? Yes X No \_\_\_\_\_ (if no, explain in Remarks)

Are vegetation \_\_\_\_\_ Soil \_\_\_\_\_ or Hydrology \_\_\_\_\_ significantly disturbed? Are "Normal Circumstances" present? (Y/N) Y

Are vegetation \_\_\_\_\_ Soil \_\_\_\_\_ or Hydrology \_\_\_\_\_ naturally problematic? If needed, explain any answers in Remarks.)

## SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes <u>X</u>	No _____	Is Sampled Area within a Wetland? Yes <u>X</u> No _____
Hydric Soil Present?	Yes <u>X</u>	No _____	
Wetland Hydrology Present?	Yes <u>X</u>	No _____	
Remarks:			

## VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status	
Tree Stratum (plot size: <u>30</u> )				<b>Dominance Test worksheet:</b>
1 <u>Salix hookeriana</u>	<u>90</u>	<u>X</u>	<u>FACW</u>	Number of Dominant Species
2 _____	_____	_____	_____	That are OBL, FACW, or FAC: <u>2</u> (A)
3 _____	_____	_____	_____	Total Number of Dominant
4 _____	_____	_____	_____	Species Across All Strata: <u>3</u> (B)
	<u>90</u>	= Total Cover		Percent of Dominant Species
Sapling/Shrub Stratum (plot size: <u>15</u> )				That are OBL, FACW, or FAC: <u>67%</u> (A/B)
1 <u>Rubus armeniacus</u>	<u>90</u>	<u>X</u>	<u>FAC</u>	<b>Prevalence Index Worksheet:</b>
2 _____	_____	_____	_____	Total % Cover of _____ Multiply by: _____
3 _____	_____	_____	_____	OBL Species _____ x 1 = <u>0</u>
4 _____	_____	_____	_____	FACW species _____ x 2 = <u>0</u>
5 _____	_____	_____	_____	FAC Species _____ x 3 = <u>0</u>
	<u>90</u>	= Total Cover		FACU Species _____ x 4 = <u>0</u>
Herb Stratum (plot size: _____)				UPL Species _____ x 5 = <u>0</u>
1 _____	_____	_____	_____	Column Totals <u>0</u> (A) <u>0</u> (B)
2 _____	_____	_____	_____	Prevalence Index =B/A = <u>#DIV/0!</u>
3 _____	_____	_____	_____	<b>Hydrophytic Vegetation Indicators:</b>
4 _____	_____	_____	_____	1- Rapid Test for Hydrophytic Vegetation
5 _____	_____	_____	_____	<u>X</u> 2- Dominance Test is >50%
6 _____	_____	_____	_____	3-Prevalence Index is ≤ 3.0 <sup>1</sup>
7 _____	_____	_____	_____	4-Morphological Adaptations <sup>1</sup> (provide supporting
8 _____	_____	_____	_____	data in Remarks or on a separate sheet)
	<u>0</u>	= Total Cover		5- Wetland Non-Vascular Plants <sup>1</sup>
Woody Vine Stratum (plot size: <u>15</u> )				Problematic Hydrophytic Vegetation <sup>1</sup> (Explain)
1 <u>Hedera helix</u>	<u>70</u>	<u>X</u>	<u>FACU</u>	<sup>1</sup> Indicators of hydric soil and wetland hydrology must be present, unless
2 _____	_____	_____	_____	disturbed or problematic.
	<u>70</u>	= Total Cover		<b>Hydrophytic Vegetation Present?</b> Yes <u>X</u> No _____
% Bare Ground in Herb Stratum _____				
Remarks:				



Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (Inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
0-3	2.5YR 2.5/1	100					Sandy Loam	
3-6	10YR 2/1	100					Sandy Loam	High organics
6-8	10YR 2/1	85	5YR 3/3	15	C	M	Sandy Loam	Medium mottles
8-17	10YR 4/3	99	10YR 4/1	1	C	M	Sand	Fine sand, fine mottles

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains.

<sup>2</sup>Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)		Indicators for Problematic Hydric Soils <sup>3</sup> :
<input type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> 2 cm Muck (A10)
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Red Parent Material (TF2)
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Loamy Mucky Mineral (F1) (except MLRA 1)	<input type="checkbox"/> Very Shallow Dark Surface (TF12)
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input checked="" type="checkbox"/> Other (explain in Remarks)
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input type="checkbox"/> Depleted Matrix (F3)	
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Redox Dark Surface (F6)	
<input type="checkbox"/> Sandy Mucky Mineral (S1)	<input type="checkbox"/> Depleted Dark Surface (F7)	
<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> Redox Depressions (F8)	

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type:  
Depth (inches):

Hydric Soil Present? YesXNo

Remarks:  
Depleted matrix soils begin within 6 inches, but as they are underlain by sand, there is insufficient thickness to satisfy that criteria. Would likely if not all sand beneath.

HYDROLOGY

Wetland Hydrology Indicators:		
Primary Indicators (minimum of one required; check all that apply)		Secondary Indicators (2 or more required)
<input checked="" type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water stained Leaves (B9) (Except MLRA 1, 2, 4A, and 4B)	<input type="checkbox"/> Water stained Leaves (B9) (MLRA1, 2, 4A, and 4B)
<input checked="" type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Salt Crust (B11)	<input type="checkbox"/> Drainage Patterns (B10)
<input checked="" type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Aquatic Invertebrates (B13)	<input type="checkbox"/> Dry-Season Water Table (C2)
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres along Living Roots (C3)	<input type="checkbox"/> Geomorphic Position (D2)
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Shallow Aquitard (D3)
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Plowed Soils (C6)	<input type="checkbox"/> Fac-Neutral Test (D5)
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Stunted or Stressed Plants (D1) (LRR A)	<input type="checkbox"/> Raised Ant Mounds (D6) (LRR A)
<input type="checkbox"/> Surface Soil Cracks (B6)	<input type="checkbox"/> Other (Explain in Remarks)	<input type="checkbox"/> Frost-Heave Hummocks (D7)
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)		
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)		

Field Observations:

Surface Water Present? YesNoXDepth (inches):

Water Table Present? YesXNoDepth (inches):12

Saturation Present? YesXNoDepth (inches):11

Wetland Hydrology Present? YesXNo

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:  
Pit was open for 3 hours.

## WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: Tax Lot 4100 City/County: Cannon Beach/Clatsop Sampling Date: 12/9/2020  
 Applicant/Owner: Patrick/Dave, LLC State: OR Sampling Point: 6  
 Investigator(s): CR, SE Section, Township, Range: Section 30DA, Township 5N, Range 10W  
 Landform (hillslope, terrace, etc.): Flat Local relief (concave, convex, none): None Slope (%): 1  
 Subregion (LRR): LRR A Lat: 45.8869 Long: -123.9632 Datum: WGS84  
 Soil Map Unit Name: Templeton-Ecola Silt Loams NWI Classification: None

Are climatic/hydrologic conditions on the site typical for this time of year? Yes X No \_\_\_\_\_ (if no, explain in Remarks)

Are vegetation \_\_\_\_\_ Soil \_\_\_\_\_ or Hydrology \_\_\_\_\_ significantly disturbed? Are "Normal Circumstances" present? (Y/N) Y

Are vegetation \_\_\_\_\_ Soil \_\_\_\_\_ or Hydrology \_\_\_\_\_ naturally problematic? If needed, explain any answers in Remarks.)

## SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes <u>X</u>	No _____	Is Sampled Area within a Wetland? Yes _____ No <u>X</u>
Hydric Soil Present?	Yes _____	No <u>X</u>	
Wetland Hydrology Present?	Yes _____	No <u>X</u>	

Remarks:

## VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status	
<b>Tree Stratum</b> (plot size: <u>30</u> )				<b>Dominance Test worksheet:</b> Number of Dominant Species That are OBL, FACW, or FAC: <u>2</u> (A) Total Number of Dominant Species Across All Strata: <u>3</u> (B) Percent of Dominant Species That are OBL, FACW, or FAC: <u>67%</u> (A/B)
1 <u><i>Alnus rubra</i></u>	<u>60</u>	<u>X</u>	<u>FAC</u>	<b>Prevalence Index Worksheet:</b> Total % Cover of _____ Multiply by: OBL Species _____ x 1 = <u>0</u> FACW species _____ x 2 = <u>0</u> FAC Species _____ x 3 = <u>0</u> FACU Species _____ x 4 = <u>0</u> UPL Species _____ x 5 = <u>0</u> Column Totals <u>0</u> (A) <u>0</u> (B) Prevalence Index =B/A = <u>#DIV/0!</u>
2 _____	_____	_____	_____	
3 _____	_____	_____	_____	
4 _____	_____	_____	_____	
5 _____	_____	_____	_____	
<u>60</u> = Total Cover				
<b>Sapling/Shrub Stratum</b> (plot size: <u>15</u> )				
1 <u><i>Rubus armeniacus</i></u>	<u>75</u>	<u>X</u>	<u>FAC</u>	
2 _____	_____	_____	_____	
3 _____	_____	_____	_____	
4 _____	_____	_____	_____	
5 _____	_____	_____	_____	
<u>75</u> = Total Cover				
<b>Herb Stratum</b> (plot size: _____ )				
1 _____	_____	_____	_____	
2 _____	_____	_____	_____	
3 _____	_____	_____	_____	
4 _____	_____	_____	_____	
5 _____	_____	_____	_____	
6 _____	_____	_____	_____	
7 _____	_____	_____	_____	
8 _____	_____	_____	_____	
<u>0</u> = Total Cover				
<b>Woody Vine Stratum</b> (plot size: <u>15</u> )				
1 <u><i>Hedera helix</i></u>	<u>40</u>	<u>X</u>	<u>FACU</u>	
2 _____	_____	_____	_____	
<u>40</u> = Total Cover				
% Bare Ground in Herb Stratum <u>50</u>				
<b>Hydrophytic Vegetation Indicators:</b> 1- Rapid Test for Hydrophytic Vegetation <u>X</u> 2- Dominance Test is >50% 3-Prevalence Index is ≤ 3.0 <sup>1</sup> 4-Morphological Adaptations <sup>1</sup> (provide supporting data in Remarks or on a separate sheet) 5- Wetland Non-Vascular Plants <sup>1</sup> Problematic Hydrophytic Vegetation <sup>1</sup> (Explain) <sup>1</sup> Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic. <b>Hydrophytic Vegetation Present?</b> Yes <u>X</u> No _____				

Remarks:

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (Inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
0-9	10YR 2/2	100					Sandy Loam	
9-16	10YR 4/2	80					Sand	
	10YR 2/2	20					Sandy Loam	

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains.

<sup>2</sup>Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)		Indicators for Problematic Hydric Soils <sup>3</sup> :
<input type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> 2 cm Muck (A10)
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Red Parent Material (TF2)
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Loamy Mucky Mineral (F1) (except MLRA 1)	<input type="checkbox"/> Very Shallow Dark Surface (TF12)
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input type="checkbox"/> Other (explain in Remarks)
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input type="checkbox"/> Depleted Matrix (F3)	
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Redox Dark Surface (F6)	
<input type="checkbox"/> Sandy Mucky Mineral (S1)	<input type="checkbox"/> Depleted Dark Surface (F7)	
<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> Redox Depressions (F8)	

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type:  
Depth (inches):

Hydric Soil Present? Yes No X

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:		
Primary Indicators (minimum of one required; check all that apply)		Secondary Indicators (2 or more required)
<input type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water stained Leaves (B9) (Except MLRA 1, 2, 4A, and 4B)	<input type="checkbox"/> Water stained Leaves (B9) (MLRA1, 2, 4A, and 4B)
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Salt Crust (B11)	<input type="checkbox"/> Drainage Patterns (B10)
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Aquatic Invertebrates (B13)	<input type="checkbox"/> Dry-Season Water Table (C2)
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres along Living Roots (C3)	<input type="checkbox"/> Geomorphic Position (D2)
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Shallow Aquitard (D3)
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Plowed Soils (C6)	<input type="checkbox"/> Fac-Neutral Test (D5)
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Stunted or Stressed Plants (D1) (LRR A)	<input type="checkbox"/> Raised Ant Mounds (D6) (LRR A)
<input type="checkbox"/> Surface Soil Cracks (B6)	<input type="checkbox"/> Other (Explain in Remarks)	<input type="checkbox"/> Frost-Heave Hummocks (D7)
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)		
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)		

Field Observations:

Surface Water Present? Yes No X  
Water Table Present? Yes No X  
Saturation Present? Yes No X (includes capillary fringe)

Depth (inches):  
Depth (inches):  
Depth (inches):

Wetland Hydrology Present? Yes No X

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

## WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: Tax Lot 4100 City/County: Cannon Beach/Clatsop Sampling Date: 12/9/2020  
 Applicant/Owner: Patrick/Dave, LLC State: OR Sampling Point: 7  
 Investigator(s): CR, SE Section, Township, Range: Section 30DA, Township 5N, Range 10W  
 Landform (hillslope, terrace, etc.): Flat Local relief (concave, convex, none): None Slope (%): 1  
 Subregion (LRR): LRR A Lat: 45.8865 Long: -123.9634 Datum: WGS84  
 Soil Map Unit Name: Templeton-Ecola Silt Loams NWI Classification: None

Are climatic/hydrologic conditions on the site typical for this time of year? Yes X No \_\_\_\_\_ (if no, explain in Remarks)

Are vegetation \_\_\_\_\_ Soil \_\_\_\_\_ or Hydrology \_\_\_\_\_ significantly disturbed? Are "Normal Circumstances" present? (Y/N) Y

Are vegetation \_\_\_\_\_ Soil \_\_\_\_\_ or Hydrology \_\_\_\_\_ naturally problematic? If needed, explain any answers in Remarks.)

## SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes <u>X</u>	No _____	Is Sampled Area within a Wetland? Yes _____ No <u>X</u>
Hydric Soil Present?	Yes _____	No <u>X</u>	
Wetland Hydrology Present?	Yes _____	No <u>X</u>	

Remarks:

## VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status	
<b>Tree Stratum</b> (plot size: <u>30</u> )				<b>Dominance Test worksheet:</b>  Number of Dominant Species That are OBL, FACW, or FAC: <u>4</u> (A)  Total Number of Dominant Species Across All Strata: <u>6</u> (B)  Percent of Dominant Species That are OBL, FACW, or FAC: <u>67%</u> (A/B)
1 <u>Salix hookeriana</u>	<u>75</u>	<u>X</u>	<u>FACW</u>	
2 _____	_____	_____	_____	
3 _____	_____	_____	_____	
4 _____	_____	_____	_____	
	<u>75</u>	= Total Cover		
<b>Sapling/Shrub Stratum</b> (plot size: <u>15</u> )				
1 <u>Gaultheria shallon</u>	<u>10</u>	<u>X</u>	<u>FACU</u>	
2 _____	_____	_____	_____	
3 _____	_____	_____	_____	
4 _____	_____	_____	_____	
5 _____	_____	_____	_____	
	<u>10</u>	= Total Cover		
<b>Herb Stratum</b> (plot size: <u>5</u> )				<b>Prevalence Index Worksheet:</b>  Total % Cover of _____ Multiply by: _____ OBL Species _____ x 1 = <u>0</u> FACW species _____ x 2 = <u>0</u> FAC Species _____ x 3 = <u>0</u> FACU Species _____ x 4 = <u>0</u> UPL Species _____ x 5 = <u>0</u> Column Totals <u>0</u> (A) <u>0</u> (B)  Prevalence Index =B/A = <u>#DIV/0!</u>
1 <u>Equisetum arvense</u>	<u>50</u>	<u>X</u>	<u>FAC</u>	
2 <u>Mianthemum dilatatum</u>	<u>30</u>	<u>X</u>	<u>FAC</u>	
3 <u>Ranunculus repens</u>	<u>20</u>	<u>X</u>	<u>FAC</u>	
4 _____	_____	_____	_____	
5 _____	_____	_____	_____	
6 _____	_____	_____	_____	
7 _____	_____	_____	_____	
8 _____	_____	_____	_____	
	<u>100</u>	= Total Cover		
<b>Woody Vine Stratum</b> (plot size: <u>15</u> )				
1 <u>Hedera helix</u>	<u>80</u>	<u>X</u>	<u>FACU</u>	
2 _____	_____	_____	_____	
	<u>80</u>	= Total Cover		
% Bare Ground in Herb Stratum _____				
<b>Hydrophytic Vegetation Indicators:</b> _____ 1- Rapid Test for Hydrophytic Vegetation <u>X</u> 2- Dominance Test is >50% _____ 3-Prevalence Index is ≤ 3.0 <sup>1</sup> _____ 4-Morphological Adaptations <sup>1</sup> (provide supporting data in Remarks or on a separate sheet) _____ 5- Wetland Non-Vascular Plants <sup>1</sup> _____ Problematic Hydrophytic Vegetation <sup>1</sup> (Explain) <sup>1</sup> Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.				
<b>Hydrophytic Vegetation Present?</b> Yes <u>X</u> No _____				
Remarks:				



Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (Inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
0-4	10YR 2/2						Silt Loam	
4-11	10YR 3/2	98	10YR 3/3	1	C	M	Silt Loam	
			10YR 3/6	1	C	M	Silt Loam	
11-16	10YR 4/3	90	5YR 3/4	10	C	M	Sand	

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains.

<sup>2</sup>Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)		Indicators for Problematic Hydric Soils <sup>3</sup> :
<input type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> 2 cm Muck (A10)
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Red Parent Material (TF2)
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Loamy Mucky Mineral (F1) (except MLRA 1)	<input type="checkbox"/> Very Shallow Dark Surface (TF12)
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input type="checkbox"/> Other (explain in Remarks)
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input type="checkbox"/> Depleted Matrix (F3)	
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Redox Dark Surface (F6)	
<input type="checkbox"/> Sandy Mucky Mineral (S1)	<input type="checkbox"/> Depleted Dark Surface (F7)	
<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> Redox Depressions (F8)	

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type:

Depth (inches):

Hydric Soil Present? Yes  No 

X

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:		
Primary Indicators (minimum of one required; check all that apply)		Secondary Indicators (2 or more required)
<input type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water stained Leaves (B9) (Except MLRA 1, 2, 4A, and 4B)	<input type="checkbox"/> Water stained Leaves (B9) (MLRA1, 2, 4A, and 4B)
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Salt Crust (B11)	<input type="checkbox"/> Drainage Patterns (B10)
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Aquatic Invertebrates (B13)	<input type="checkbox"/> Dry-Season Water Table (C2)
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres along Living Roots (C3)	<input type="checkbox"/> Geomorphic Position (D2)
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Shallow Aquitard (D3)
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Plowed Soils (C6)	<input type="checkbox"/> Fac-Neutral Test (D5)
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Stunted or Stressed Plants (D1) (LRR A)	<input type="checkbox"/> Raised Ant Mounds (D6) (LRR A)
<input type="checkbox"/> Surface Soil Cracks (B6)	<input type="checkbox"/> Other (Explain in Remarks)	<input type="checkbox"/> Frost-Heave Hummocks (D7)
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)		
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)		

Field Observations:

Surface Water Present? Yes  No 

X

Water Table Present? Yes  No 

X

Saturation Present? Yes  No 

X

(includes capillary fringe)

Depth (inches):

Depth (inches): 

>16

Depth (inches): 

>16

Wetland Hydrology Present? Yes  No 

X

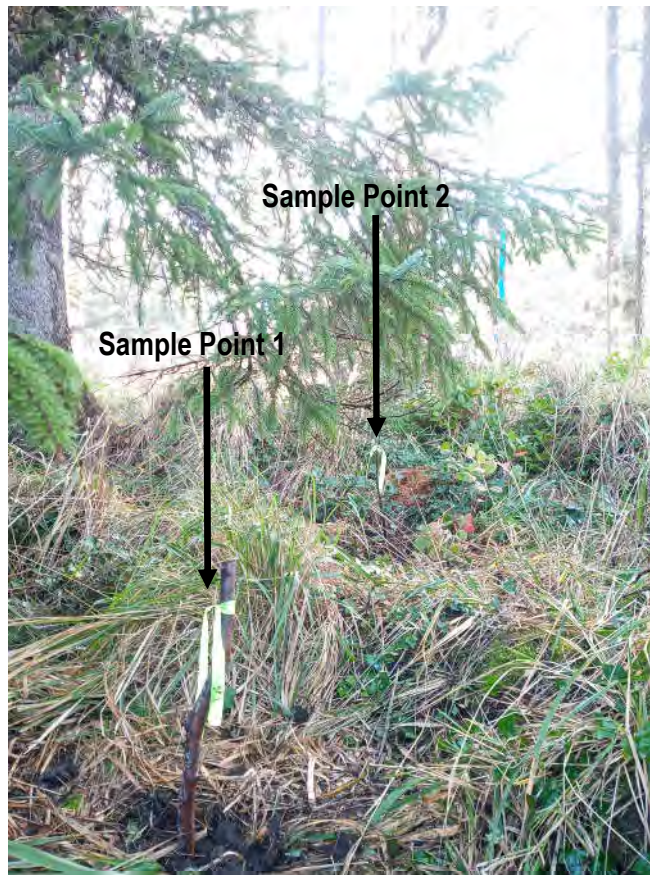
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

# Appendix C

## Site Photos (ground level)



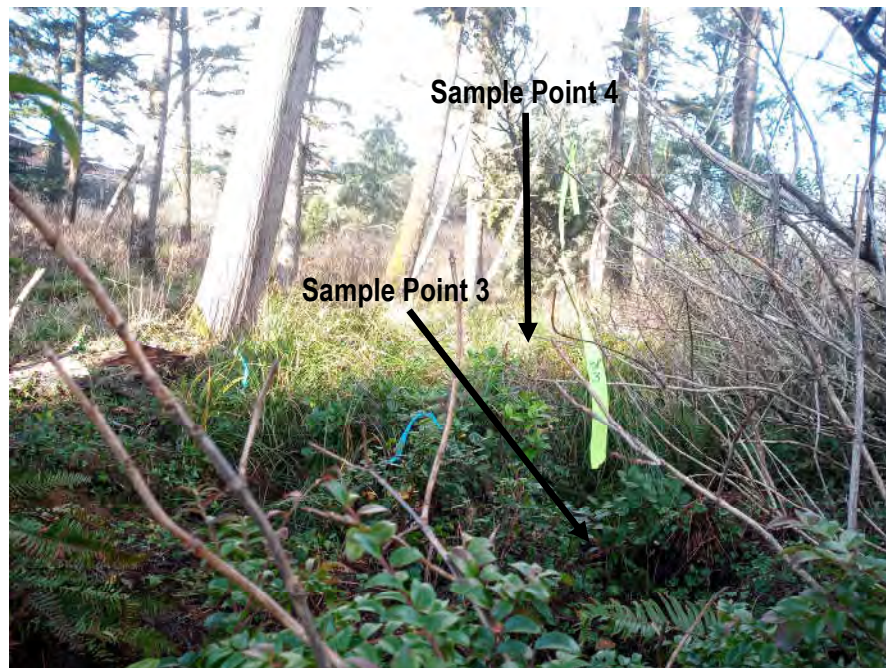


**Photo A**

Looking northeast at Sample Points 1 and 2 in the southwestern portion of Wetland A.

**Photo B**

Looking north at Sample Points 3 and 4 in the southeastern portion of Wetland A.



#6978

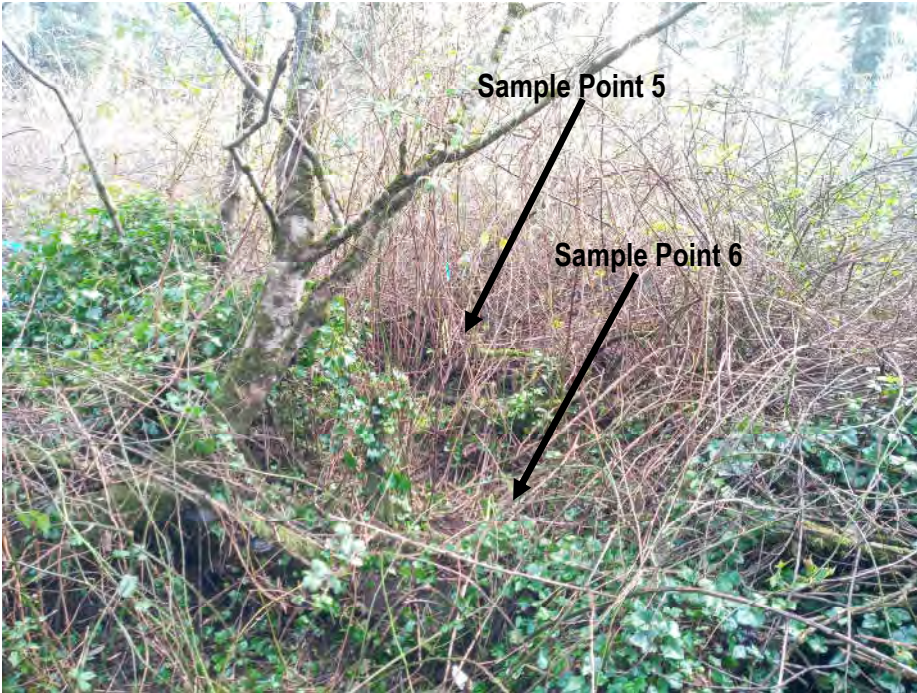
3/19/2021



Pacific Habitat Services, Inc.  
9450 SW Commerce Circle, Suite 180  
Wilsonville, OR 97070

Photodocumentation  
Tax Lot 4100, Cannon Beach, Oregon  
Both photos taken on December 9, 2020





**Photo C**

Looking southeast at Sample Points 5 and 6 in the northwestern portion of Wetland A.

**Photo D**

Looking east at Sample Point 7, to the west of the southwestern portion of Wetland A.



#6978

3/19/2021



Pacific Habitat Services, Inc.  
9450 SW Commerce Circle, Suite 180  
Wilsonville, OR 97070

Photodocumentation  
Tax Lot 4100, Cannon Beach, Oregon  
Both photos taken on December 9, 2020





**Photo E**

Looking north at the southwestern portion of Wetland A, where the house to the south drains stormwater onto the site.

#6978

3/19/2021



Pacific Habitat  
Services, Inc.  
9450 SW Commerce

Photodocumentation  
Tax Lot 4100, Cannon Beach, Oregon  
Photo taken on December 9, 2020

# Appendix D

## Wetland Definitions, Methodology



# **WATERS OF THE STATE AND WETLAND DEFINITION AND CRITERIA**

## **Regulatory Jurisdiction**

Wetlands and water resources in Oregon are regulated by the Oregon Department of State Lands (DSL) under the Removal-Fill Law (ORS 196.800-196.990) and by the U.S. Army Corps of Engineers (COE) through Section 404 of the Clean Water Act.

The primary source documents for wetland delineations within Oregon is the *Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1* (Environmental Laboratory 1987) and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0)* (U.S. Army Corps of Engineers, 2010), which are required by both DSL and COE.

## **Waters of The State and Wetland Definition**

Waters of The State are defined as “all natural waterways, tidal and non-tidal bays, intermittent streams, constantly flowing streams, lakes, wetlands, that portion of the Pacific Ocean that is in the boundaries of this state, all other navigable and non-navigable bodies of water in this state and those portions of the ocean shore ...” (DSL, 2009).

Wetlands are defined as “those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions” (DSL 2009).

## **Wetland Criteria**

Based on the above definition, three major factors characterize a wetland: hydrology, substrate, and biota.

### **Wetland Hydrology**

Wetland hydrology is related to duration of saturation, frequency of saturation, and critical depth of saturation. The 1987 manual defines wetland hydrology as inundation or saturation within a major portion of the root zone (usually above 12 inches), typically for at least 12.5% of the growing season. The wetland hydrology criterion can be met, however, if saturation within the major portion of the root zone is present for only 5% of the growing season, depending on other evidence.

The growing season is defined as the portion of the year when soil temperatures at 12.0 inches below the soil surface are higher than biological zero (41 degrees Fahrenheit, 5 degrees Celsius), but also allows approximation from frost free days, based on air temperature. The growing season for any given site or location is determined from US Natural Resources Conservation Service, (formerly Soil Conservation Service) data and information.

Wetland hydrologic indicators include the following: visual observation of inundation or saturation, watermarks, drift lines, sediment deposits, and/or oxidized rhizospheres with living roots. Oxidized rhizospheres are defined as yellowish-red zones around the roots and rhizomes of some plants that grow in frequently saturated soils. Other indicators of hydrology, including algal mats or crust, iron deposits, surface soil cracks, sparsely vegetated concave surface, salt crust, aquatic invertebrates, hydrogen sulfide odor, reduced iron, iron reduction in tilled soils, and stunted or stressed plants can also be used to determine the presence of wetland hydrology.

### Wetland Substrate (Soils)

Most wetlands are characterized by hydric soils. Hydric soils are those that are ponded, flooded, or saturated for long enough during the growing season to develop anaerobic conditions. Periodic saturation of soils causes alternation of reduced and oxidized conditions, which leads to the formation of redoximorphic features (gleying and mottling). Mineral hydric soils will be either gleyed or will have bright mottles and/or low matrix chroma. The redoximorphic feature known as gley is a result of greatly reduced soil conditions, which result in a characteristic grayish, bluish or greenish soil color. The term mottling is used to describe areas of contrasting color within a soil matrix. The soil matrix is the portion of the soil layer that has the predominant color. Soils that have brightly colored mottles and a low matrix chroma are indicative of a fluctuating water table.

Hydric soil indicators include: organic content of greater than 50% by volume, and/or presence of redoximorphic features and dark soil matrix, as determined by the use of a Munsell Soil Color Chart. This chart establishes the chroma, value and hue of soils based on comparison with color chips. Mineral hydric soil must meet one of the 16 definitions for hydric soil indicators, or be classified as a “problem soil” in the Regional Supplement.

### Wetland Biota (Vegetation)

Wetland biota is defined as hydrophytic vegetation. A hydrophyte is a plant species that is capable of growing in substrates that are periodically deficient in oxygen as a result of saturated soil conditions. The U.S. Fish and Wildlife Service, in the *National List of Plant Species that Occur in Wetlands*, has established five basic groups of vegetation based on their frequency of occurrence in wetlands. These categories, referred to as the "wetland indicator status", are as follows: obligate wetland plants (OBL), facultative wetland (FACW), facultative (FAC), facultative upland (FACU), and obligate upland (UPL). Table 1 gives a definition of the plant indicator codes.

**Table 1. Description of Wetland Plant Indicator Status Codes**

Indicator Code	Status
<b>OBL</b>	Obligate wetland. Plants that always occur in standing water or in saturated soils.
<b>FACW</b>	Facultative wetland. Plants that nearly always occur in areas of prolonged flooding or require standing water or saturated soils but may, on rare occasions, occur in non-wetlands.
<b>FAC</b>	Facultative. Plants that occur in a variety of habitats, including wetland and mesic to xeric non-wetland habitats but commonly occur in standing water or saturated soils.
<b>FACU</b>	Facultative upland. Plants that typically occur in xeric or mesic non-wetland habitats but may frequently occur in standing water or saturated soils.
<b>UPL</b>	Obligate upland. Plants that rarely occur in water or saturated soils.



Observations of hydrology, soils, and vegetation, were made using the "Routine On-site" delineation method as defined in the 1987 manual and the Regional Supplement for areas that were not currently in agricultural production. One-foot diameter soil pits were excavated to 20 inches and soil profiles were examined for hydric soil and wetland hydrology field indicators. In addition, a visual absolute-cover estimate of the dominant species of the plant community was performed using soil pit locations as a center of reference. Dominant plant species are based on estimates of absolute cover for herbaceous, and shrub species within a 5 foot radius of the sample point, and basal area cover for tree and woody vine species within a 30 foot radius of the sample point. Plant species in each vegetative layer, which are estimated at less than 20% of the total cover, are not considered to be dominant. The wetland indicator status is then used to determine if there is an overall dominance (greater than 50%) of wetland or upland plant species. If less than 50% of the dominant species are hydrophytic, then the prevalence index may be used to determine if the subdominant species are hydrophytic. If the prevalence index is less than or equal to 3, hydrophytic vegetation criterion is met.

During data collection, the soil profiles were examined for hydric soil and wetland hydrology field indicators. Plant species and cover were recorded. Data was recorded on standard data sheets which contain the information specified in the 1987 Corps Manual and the Regional Supplement.



# Oregon

Kate Brown, Governor

## Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

[www.oregon.gov/dsl](http://www.oregon.gov/dsl)

### State Land Board

June 8, 2021

Patrick/Dave, LLC  
Attn: Patrick Gemma  
2575 38<sup>th</sup> Avenue West  
Seattle, WA 98199

Kate Brown  
Governor

Shemia Fagan  
Secretary of State

Re: WD # 2021-0153 **Approved**  
Wetland Delineation Report for Tax Lot 4100 on Forest Lawn Drive  
Clatsop County; T5N R10W 30DA TL4100  
Cannon Beach Local Wetlands Inventory, Wetland 24

Tobias Read  
State Treasurer

Dear Mr. Gemma:

The Department of State Lands has reviewed the wetland delineation report prepared by Pacific Habitat Services for the site referenced above. Based upon the information presented in the report, we concur with the wetland boundaries as mapped in revised Figure 6 of the report. Please replace all copies of the preliminary wetland map with this final Department-approved map.

Within the study area, one wetland (Wetland A, totaling approximately 0.68 acres) was identified. This wetland is subject to the permit requirements of the state Removal-Fill Law. Under current regulations, a state permit is required for cumulative fill or annual excavation of 50 cubic yards or more in wetlands or below the ordinary high-water line (OHWL) of the waterway (or the 2-year recurrence interval flood elevation if OHWL cannot be determined).

This concurrence is for purposes of the state Removal-Fill Law only. We recommend that you attach a copy of this concurrence letter to any subsequent state permit application to speed application review. Federal or local permit requirements may apply as well. The U.S. Army Corps of Engineers will determine jurisdiction under the Clean Water Act, which may require submittal of a complete Wetland Delineation Report.

Please be advised that state law establishes a preference for avoidance of wetland impacts. Because measures to avoid and minimize wetland impacts may include reconfiguring parcel layout and size or development design, we recommend that you work with Department staff on appropriate site design before completing the city or county land use approval process.

This concurrence is based on information provided to the agency. The jurisdictional determination is valid for five years from the date of this letter unless new information necessitates a revision. Circumstances under which the Department may change a determination are found in OAR 141-090-0045 (available on our web site or upon request). In addition, laws enacted by the legislature and/or rules adopted by the Department may result in a change in jurisdiction; individuals and applicants are subject to the regulations that are in effect at the time of the removal-fill activity or complete permit application. The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months of the date of this letter.

Thank you for having the site evaluated. If you have any questions, please contact the Jurisdiction Coordinator, Jessica Imbrie, at (503) 986-5250.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Ryan", written in a cursive style.

Peter Ryan, SPWS  
Aquatic Resource Specialist

Enclosures

ec: John van Staveren, SPWS, Pacific Habitat Services  
City of Cannon Beach Planning Department (Maps enclosed for updating LWI)  
Brad Johnson, Corps of Engineers  
Dan Cary, SPWS, DSL  
Oregon Coastal Management Program ([coast.permits@state.or.us](mailto:coast.permits@state.or.us))

# WETLAND DELINEATION / DETERMINATION REPORT COVER FORM

Fully completed and signed report cover forms and applicable fees are required before report review timelines are initiated by the Department of State Lands. Make the checks payable to the Oregon Department of State Lands. To pay fees by credit card, go online at: <https://apps.oregon.gov/DSL/EPS/program?key=4>.

Attach this completed and signed form to the front of an unbound report or include a hard copy with a digital version (single PDF file of the report cover from and report, minimum 300 dpi resolution) and submit to, **Oregon Department of State Lands, 775 Summer Street NE, Suite 100, Salem, OR 97301-1279**. A single PDF of the completed cover form and report may be e-mailed to [Wetland\\_Delineation@dsl.state.or.us](mailto:Wetland_Delineation@dsl.state.or.us). For submittal of PDF files larger than 10 MB, e-mail DSL instructions on how to access the file from your ftp or other file sharing website.

## Contact and Authorization Information

☒ Applicant ☒ Owner Name, Firm and Address:

**Patrick Gemma**  
**Patrick/Dave, LLC**  
**2575 38<sup>th</sup> Avenue West**  
**Seattle, WA 98199**

Business phone #

Mobile phone # (optional) **206.419.2218**

E-mail: **pgemma@prologis.com**

☒ Authorized Legal Agent, Name and Address:

Business phone #

Mobile phone #

E-mail:

I either own the property described below or I have legal authority to allow access to the property. I authorize the Department to access the property for the purpose of confirming the information in the report, after prior notification to the primary contact.

Typed/Printed Name: **Patrick Gemma**

Signature: 

Date: **3/19/2021**

Special instructions regarding site access:

## Project and Site Information

Project Name: **Tax Lot 4100 on Forest Lawn Drive**

Latitude: **45.8864**

Longitude: **-123.9628**

decimal degree - centroid of site or start & end points of linear project

Tax Map # **5 10 30 DA**

Tax Lot(s) **4100**

Proposed Use:

**Residential subdivision**

Tax Map #

Tax Lot(s)

Project Street Address (or other descriptive location):

**SW of the intersection of Forest Lawn Dr and South Hemlock Street**

Township **5N** Range **10W** Section **30** QQ **DA**

Use separate sheet for additional tax and location information

Waterway: **N/A**

River Mile: **N/A**

City: **Cannon Beach**

County: **Clatsop**

NWI Quad(s): **Tillamook Head, Oregon**

## Wetland Delineation Information

Wetland Consultant Name, Firm and Address:


**Pacific Habitat Services**  
**Attn: John van Staveren**  
**9450 SW Commerce Circle, Suite 180**  
**Wilsonville, OR 97070**

Phone # **503-570-0800**

Mobile phone # **503-708-8320**

E-mail: **jvs@pacifichabitat.com**

The information and conclusions on this form and in the attached report are true and correct to the best of my knowledge.

Consultant Signature: 

Date: **3/19/2021**

Primary Contact for report review and site access is ☒ Consultant ☐ Applicant/Owner ☐ Authorized Agent

Wetland/Waters Present? ☒ Yes ☐ No Study Area size: **1.10 acres** Total Wetland Acreage: **0.68**

## Check Applicable Boxes Below

☐ R-F permit application submitted

☒ Fee payment submitted **\$475**

☐ Mitigation bank site

☐ Fee (\$100) for resubmittal of rejected report

☐ Industrial Land Certification Program Site

☐ Request for Reissuance. See eligibility criteria (no fee)

☐ Wetland restoration/enhancement project (not mitigation)

DSL # \_\_\_\_\_ Expiration Date \_\_\_\_\_

☐ Previous delineation/application on parcel?

☒ LWI shows wetlands or waters on parcel?

If Known, previous DSL #

Wetland ID Code **W24**

## For Office Use Only

DSL Reviewer: **JJ**

Fee Paid Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

DSL WD # **2021-0153**

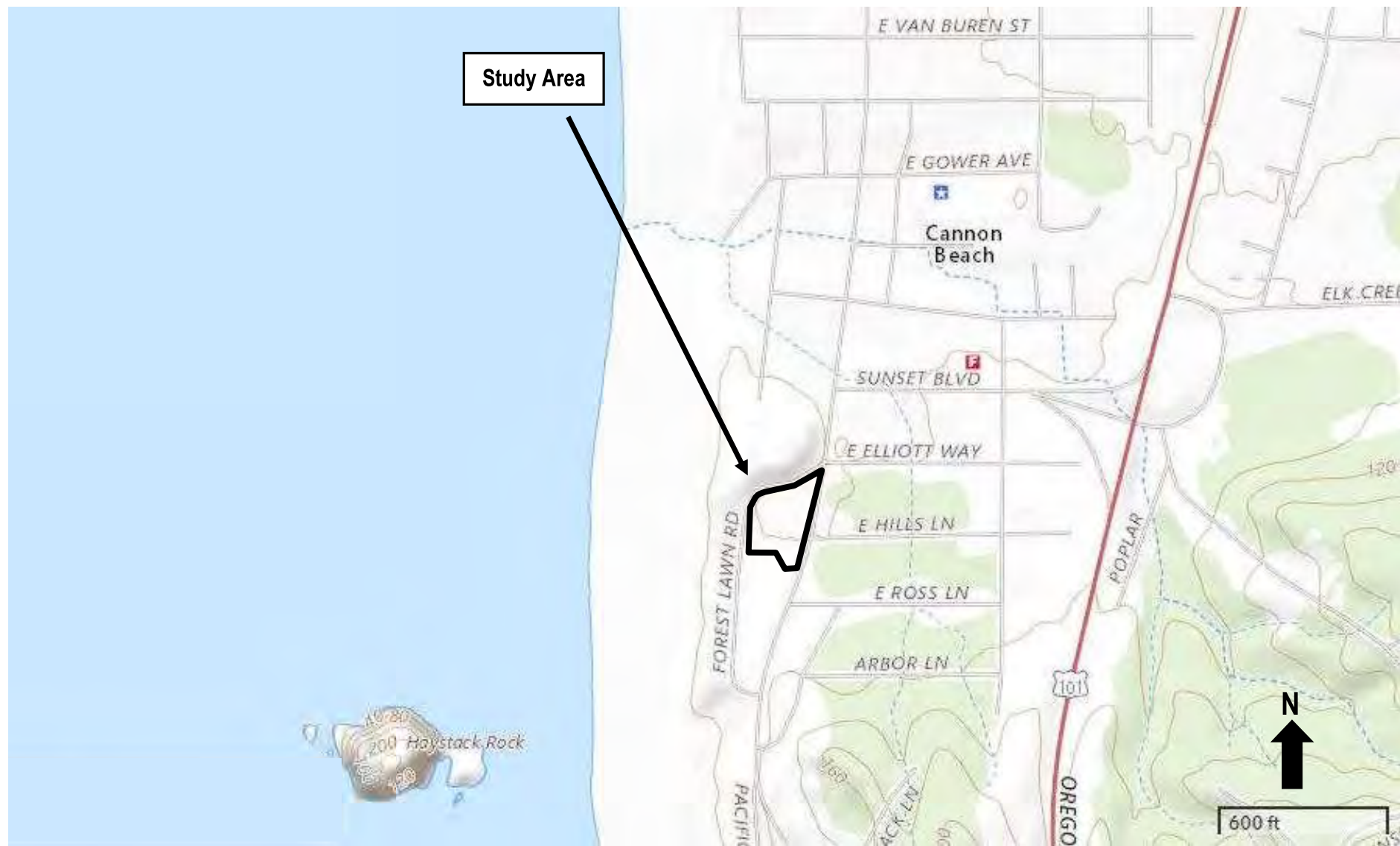
Date Delineation Received: **3 / 23 / 21**

Scanned: ☐ Final Scan: ☐

DSL App. # \_\_\_\_\_

Electronic Submittal





Project #6978  
2/16/2021

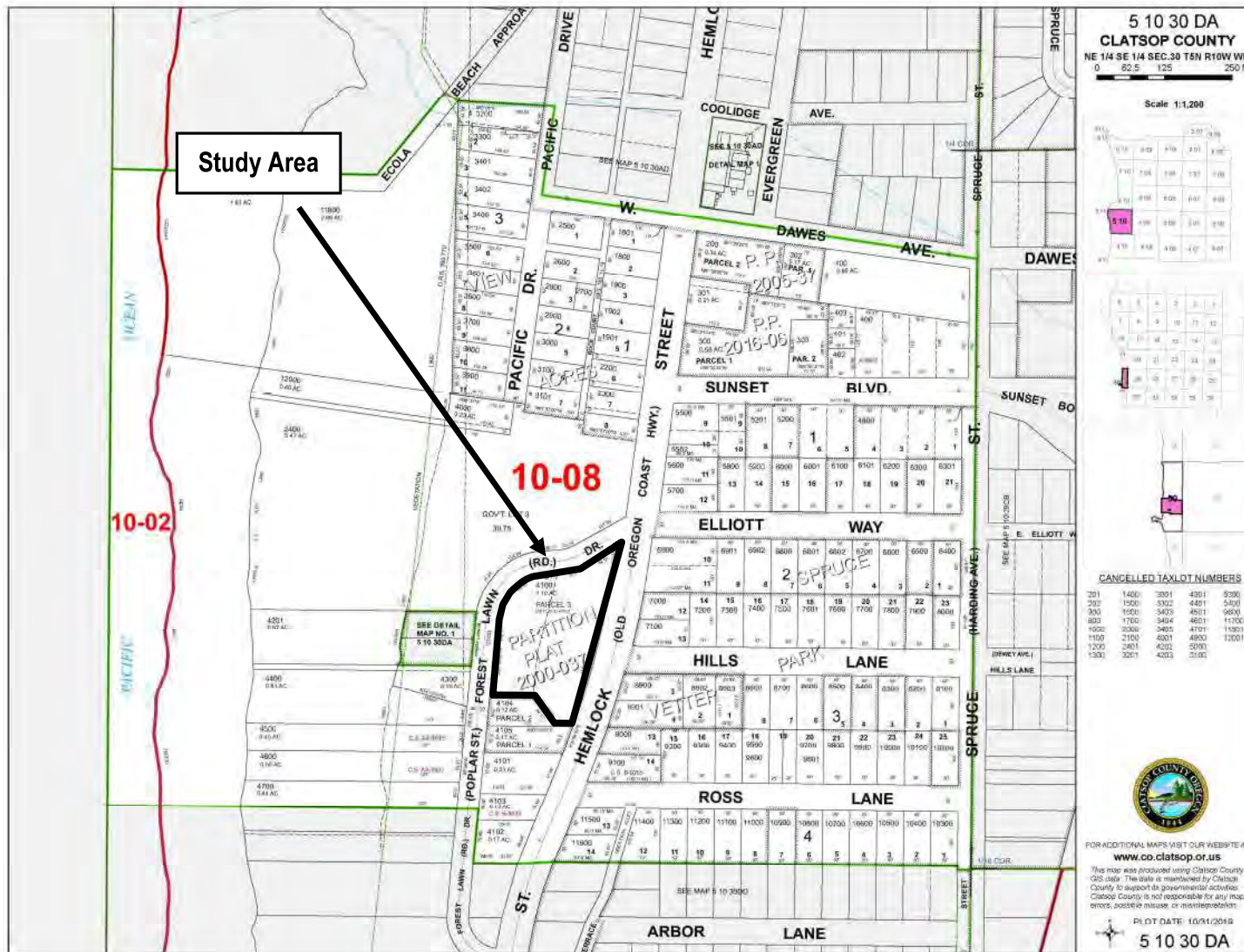


Pacific Habitat Services, Inc.  
9450 SW Commerce Circle, Suite 180  
Wilsonville, OR 97070

General Location and Topography  
Tax Lot 4100 - Cannon Beach, Oregon  
United States Geological Survey (USGS) Tillamook Head, Oregon 7.5 quadrangle, 2020  
(viewer.nationalmap.gov/basic)

FIGURE

1



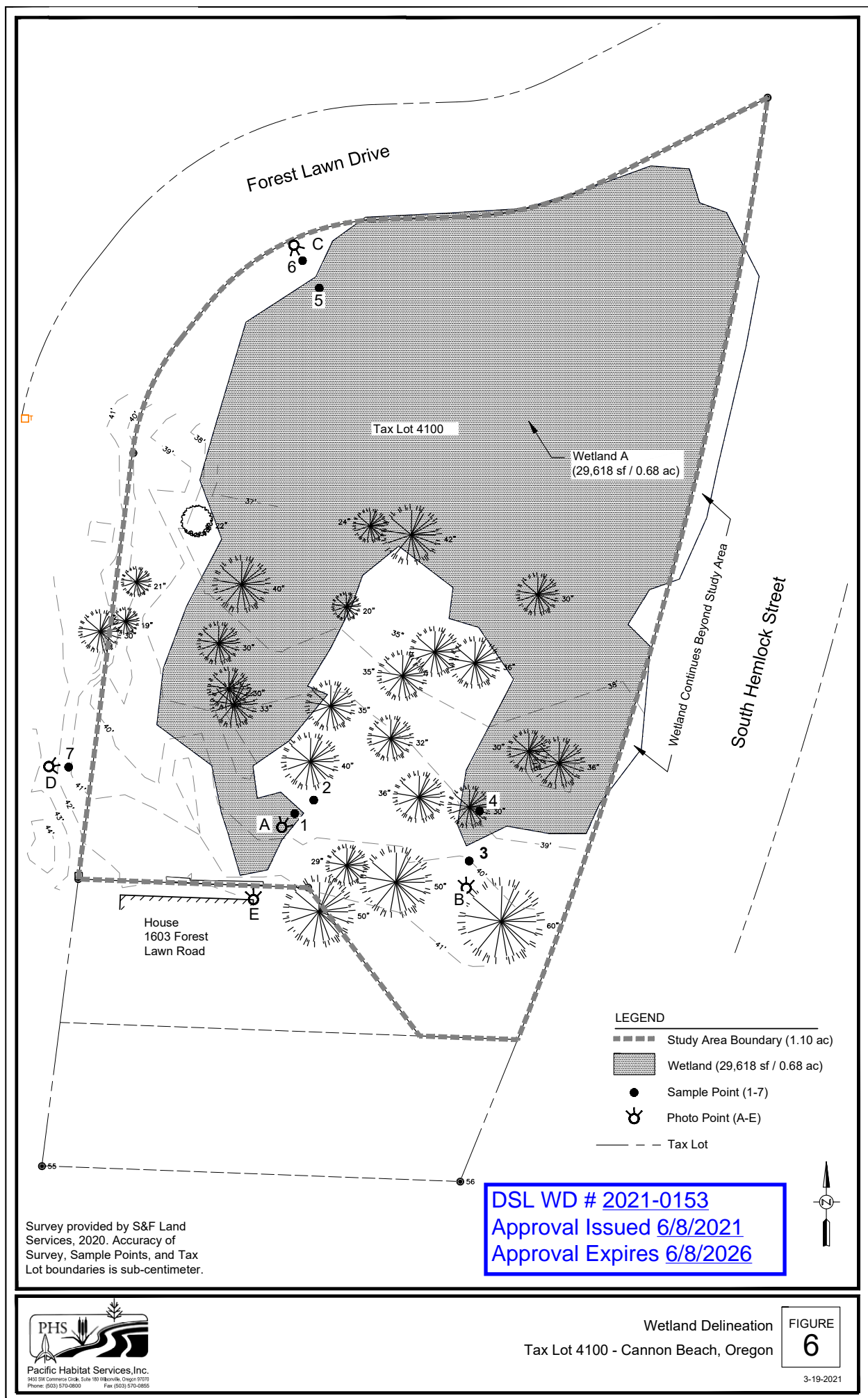
Project #6978  
2/16/2021



Pacific Habitat Services, Inc.  
9450 SW Commerce Circle, Suite 180  
Wilsonville, OR 97070

Tax Lot Map  
Tax Lot 4100 - Cannon Beach, Oregon  
The Oregon Map (ormap.net)

FIGURE  
2



P.O. Box 19313  
Portland, OR 97280-0313  
February 19, 1993

Rainmar Bartyl, City Planner  
City of Cannon Beach  
P.O. Box 368  
Cannon Beach, OR 97110

Re: Wetland Reconnaissance on Janet McMahon lot on Forest Lawn Road, Cannon Beach

Dear Rainmar,

As we discussed on the phone yesterday, I am sending you a copy of the Wetlands report that Shapiro and Associates performed on my lot this past November, which shows the property to be void of any wetland area.

You mentioned that you would pass the report on to the Building Department so that they will have it when I fill out the excavation permit prior to having the property cleared. Thank you.

I plan to leave all trees standing, as you and I discussed, including leaving the root areas undisturbed. Any fill added along the Hemlock side as a berm will be done so as not to restrict vision when exiting Forest Lawn onto Hemlock, which I will indicate on the permit.

Thanks once again for your help.

Sincerely,



Janet L. McMahon  
(503) 246-3282 home  
(503) 598-8500 office



WETLAND RECONNAISSANCE  
TOWNSHIP 5, RANGE 10, SECTION 30 PORTION DA, TAX LOT 4101  
CANNON BEACH, CLATSOP COUNTY, OREGON

Prepared for  
Ms. Janet McMahon

Prepared by:  
R. Dale Graff

SHAPIRO AND ASSOCIATES, INC.  
1020 S.W. Taylor Street, Suite 620  
Portland, Oregon 97205

December 10, 1992

# SHAPIRO & ASSOCIATES<sup>PC</sup>

1020 S.W. Taylor  
Suite 610

Portland  
Oregon 97205

Tel: 503/223-7490  
Fax: 503/228-4731

December 10, 1992

Ms. Janet McMahon  
P.O. Box 19313  
Portland, OR 97280


Re: Wetland Reconnaissance of a 0.23-acre parcel in Cannon Beach, Clatsop County, Oregon  
(Shapiro #950060).

Dear Janet:

Enclosed is a wetland reconnaissance report for your 0.23-acre parcel located on Forest Lawn Road in Cannon Beach, Oregon. SHAPIRO appreciates the opportunity to be of service to you on this important project. We do not anticipate further work on this project, but look forward to being of service to you for any future needs. Please do not hesitate to call us regarding questions you may have concerning this report.

Sincerely,

SHAPIRO AND ASSOCIATES, INC.

  
R. Dale Graff  
Wetland Scientist

Enclosures

## INTRODUCTION

Shapiro and Associates, Inc. (SHAPIRO) performed a wetland reconnaissance on November 30, 1992, of a 0.23-acre parcel in Cannon Beach, Clatsop County, Oregon. The property is located near the shore of the Pacific Ocean, directly east of Haystack Rock on the east side of Forest Lawn Road. The parcel slopes gently (2 to 3%) toward the north and is covered primarily with scrub-shrub vegetation. Property locator maps are presented in Appendix A.

A wetland reconnaissance was performed to determine if wetlands were present on the site and, if wetlands were present, to provide information concerning their location, size, and relative value.

## METHODS

The analysis of wetlands conducted on this site was based on methods developed by the U.S. Army Corps of Engineers (Corps) and other federal agencies for implementation of Section 404 of the Clean Water Act. The methods are commonly referred to as the Unified Federal Method (Federal Interagency Committee for Wetland Delineation, 1989) and the Triple Parameter Approach (U.S. Army Corps of Engineers, 1987). Use of the Unified Federal Method (1989) is required by the Oregon Division of State Lands, while use of the Triple Parameter Approach (1987) is required by the Corps. Using these methods, vegetation, soils, and hydrologic indicators were evaluated to determine if the site contained wetlands.

Prior to the wetland reconnaissance, available information on the site was reviewed including a site map provided by the property owner, the Clatsop County Soil Survey, an aerial photograph, and the National Wetland Inventory (NWI). Field work was conducted by traversing the property on an approximately 40-foot grid, noting the plant communities and hydrologic indicators. Soil samples to a depth of approximately 18 inches were collected by using an auger to verify the presence or absence of hydric soil indicators.

## RESULTS

Based on this reconnaissance and review of the NWI, no wetlands are present on the study site. Vegetation in the eastern portion of the property is dominated by Himalayan blackberry (*Rubus discolor* - FACU-) (definitions of indicator status, such as "FACU-", are found in Appendix B) while the western portion is dominated by twin-berry (*Lonicera involucrata* - FAC). Other species present include Sitka spruce (*Picea sitchensis* - FAC), blue elderberry (*Sambucus cerulea* - FAC-), swordfern (*Polystichum munitum* - FACU), bracken fern (*Pteridium aquilinum* - FACU), pig-a-back (*Tolmia menziesii* - FAC), and seawatch (*Angelica lucida* - FAC). In spite of the fact that many of the species present at the site are hydrophytic (wetness adapted), neither the soils nor the hydrologic indicators support the designation of the site as containing wetlands. One small area (approximately 6 feet by 2 feet) had an understory dominated by slough sedge (*Carex obnupta* - OBL). The soil at this location, however, as well as the soil elsewhere on the property, had high chromas (10YR 3/3 and 10 YR 4/3), which are typical of non-wetland soils. No oxidized rhizospheres were observed in the soil in the vicinity of the small slough sedge patch. The soil type is mapped as being of the Walluski series, which are very deep (greater than 60 inches) non-hydric silt loams. No direct or indirect hydrology indicators, such as standing water or high water marks, were observed at the site and no free water was encountered by the soil auger. The soil and hydrology indicators confirm that no wetlands are present at the site.

APPENDIX A



APPENDIX B



FOUND 1" IRON PIPE, TOP 0.5' BELOW SURFACE.  
ACCEPTED AS ORIGINAL MONUMENT AT STA  
6+15.15, MAP A-229  
(S 3796.35) OF SEC. COR. 19 20  
(N 975.18)

19 20  
30 29

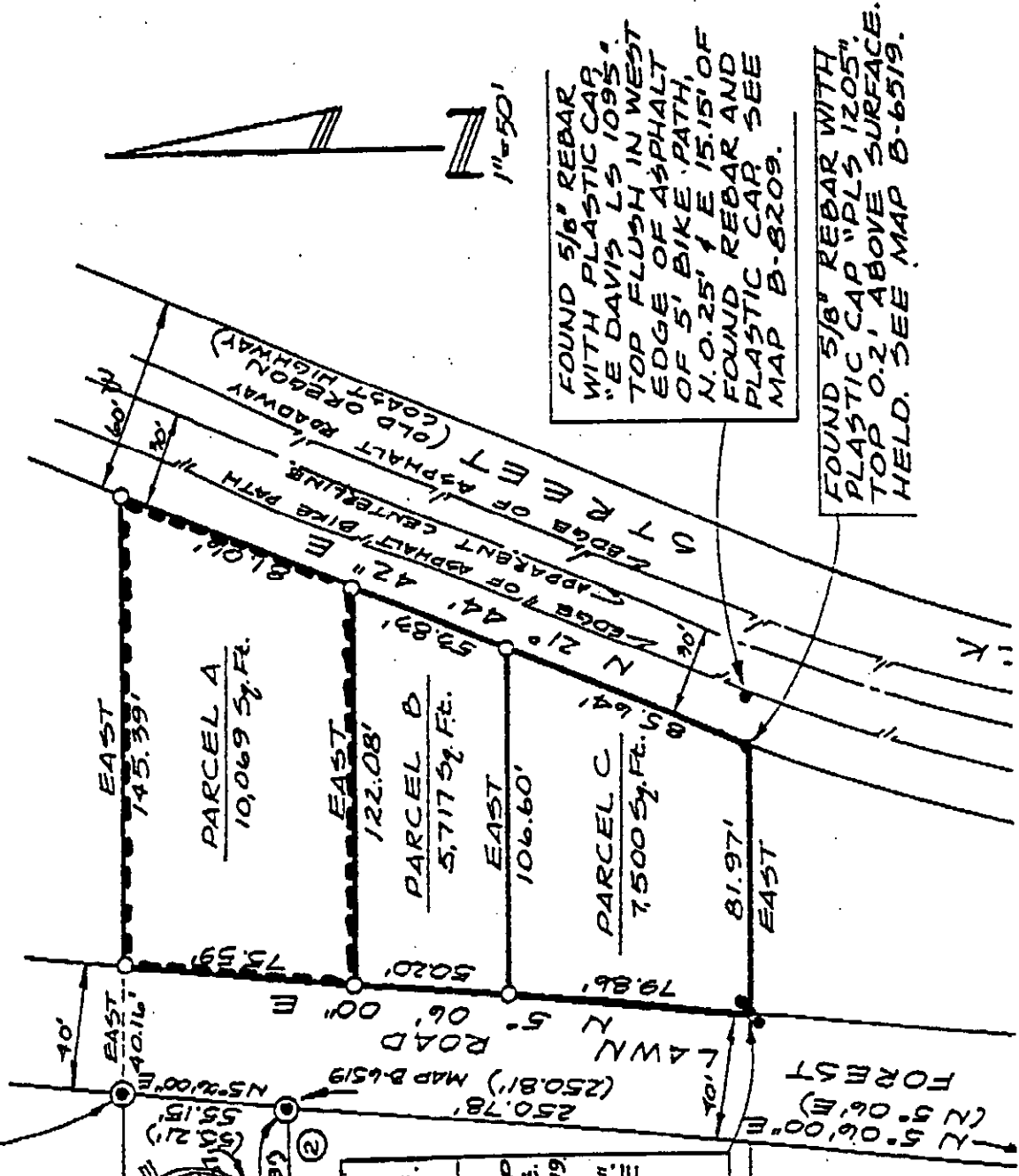
FOUND 1 1/4" IRON  
PIPE, TOP 0.7'  
BELOW SURFACE  
ACCEPTED AS  
ORIGINAL  
MONUMENT AT  
STA. 6+70.36,  
MAP A-229.  
A-229, 11.15'  
A-229, 11.15'

77.74' (17.95)  
EAST ②

FOUND 1" GALV.  
IRON PIPE, TOP  
0.2' ABOVE SURFACE.  
SEE MAP A-229

FOUND 5/8" REBAR  
W/ CAP "PLS 1205" TOP  
0.2' BELOW SURFACE.  
HELD. SEE MAP B-6519  
FOUND REBAR WITH  
CAP "E. DAVIS LS 1095".  
N 0.32' E 0.17'. SEE  
MAP B-8209.  
ALSO FOUND 3/4"  
IRON PIPE  
3.0.17' E W. 0.19'

(SEE MAP  
B-6519)

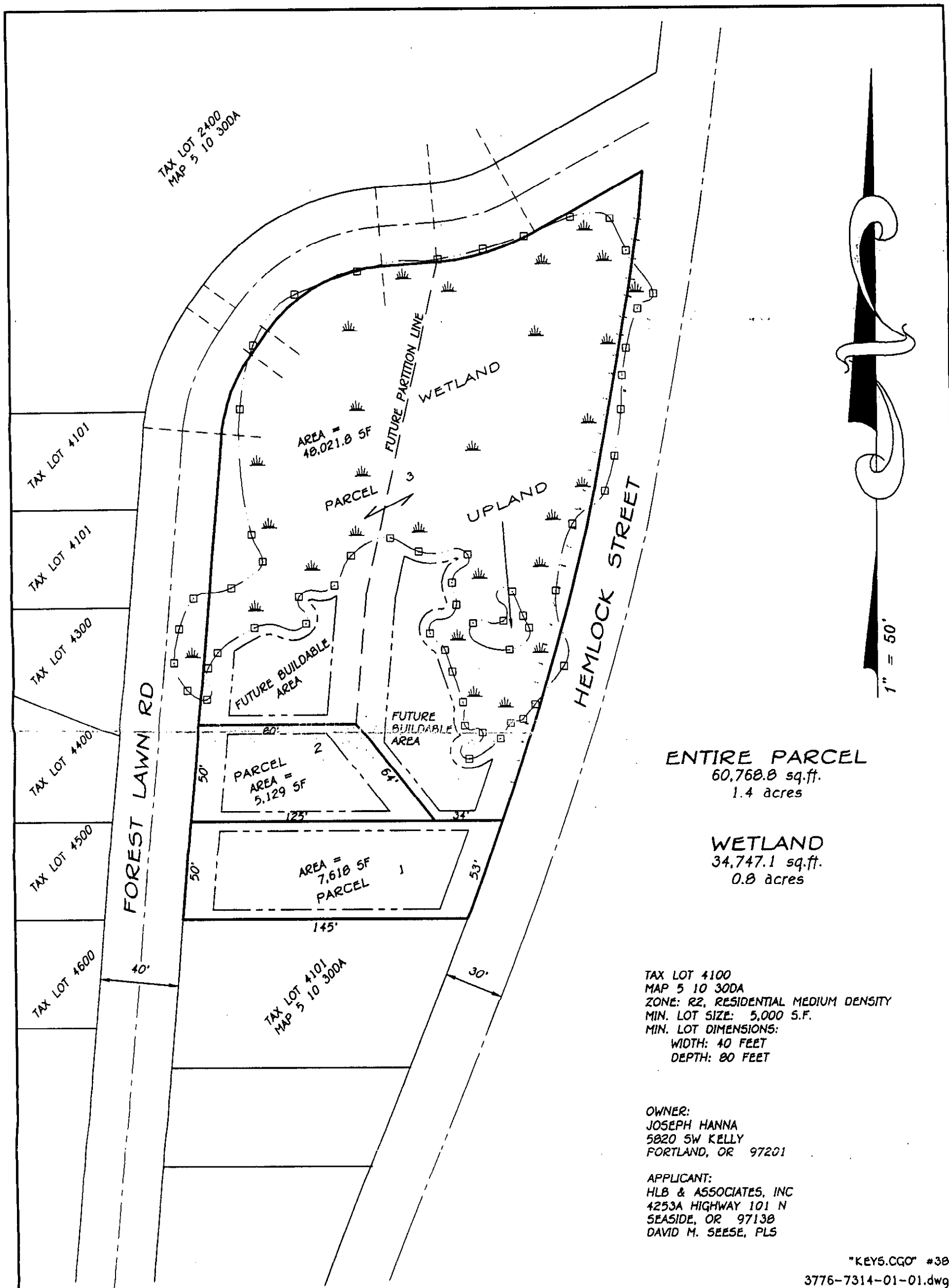


**TABLE 1 DEFINITIONS OF INDICATOR STATUS**

Indicator Symbol	Definition
OBL	Obligate. Species that occur almost always (estimated probability >99%) in wetlands under natural conditions.
FACW	Facultative wetland. Species that usually occur in wetlands (estimated probability 67 to 99%), but occasionally are found in nonwetlands.
FAC	Facultative. Species that are equally likely to occur in wetlands or nonwetlands (estimated probability 34 to 66%).
FACU	Facultative upland. Species that usually occur in nonwetlands (estimated probability 67 to 99%), but occasionally are found in wetlands.
UPL	Upland. Species that occur almost always in nonwetlands under normal conditions (estimated probability >99%).
NI	No indicator. Species for which insufficient information was available to determine an indicator status.

Sources: Federal Interagency Committee for Wetland Delineation, 1989.  
Reed, 1988.





PRELIMINARY PARTITION MAP FOR:

**JOEY HANNA**

TAX LOT 4100  
MAP 5 10 30DA

SE1/4 SECTION 30, T5N, R10W, W.M.  
CLATSOP COUNTY, OR

SURVEY BY:

**HLB & Associates**  
INCORPORATED  
Surveying • Engineering • Planning

TILLAMOOK COUNTY  
160 LANEDA AVE.  
MANZANITA, OR 97130  
(503) 368-5394  
FAX: (503) 368-5847

CLATSOP COUNTY  
4253A HWY 101 N.  
GEARHART, OR 97138  
(503) 738-3425  
FAX: (503) 738-7455

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*David M. Seese*  
OREGON  
July 10, 1998  
2762  
DAVID M. SEESE  
RENEWAL DATE: JULY 1, 2000

DATE Nov. 30, 1999	JOB NO. 7314-3776	EQUIPMENT n.d.	FIELD n.d.	DRAWN DM5	CHECKED DNB
-----------------------	----------------------	-------------------	---------------	--------------	----------------

2400  
2.39 Ac

(24)

10-08

GOVT LOT 3  
30.75

COAST

E

LAWN RD.

4100  
1.86 Ac

Wetland

Approximate  
upland/wetland  
boundary

upland

OREGON

12

7000

7100

Culvert

13 110.0

1150

890

120.0

13 9000

1150

9100

136.50

(52.0 M/L)

11500

11600

11700

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## PACIFIC HABITAT SERVICES, INC

9450 SW Commerce Circle, Suite 180  
Wilsonville, OR 97070

(800) 871-9333 • (503) 570-0800 • Fax (503) 570-0855

September 1, 2021

**Patrick/Dave, LLC**  
**Patrick Gemma and Dave Pietka**  
[pgemma@prologis.com](mailto:pgemma@prologis.com)  
[dpietka@msn.com](mailto:dpietka@msn.com)

**In Re: Stormwater influence on southern portion of Tax Lot 4100 on Forest Lawn Drive,  
Cannon Beach  
PHS project number: 6978**

Dear Patrick and Dave:

In 1999, Pacific Habitat Services, Inc. (PHS) conducted a wetland delineation within tax lot 4100. The attached Figure 5 shows the results of that wetland delineation. We revisited the property in December 2020 to re-delineate the property, which is shown on Figure 6. In general, the location of the wetlands did not significantly change, however, we did observe additional wetlands in the southwest portion of the property.

Wetland delineations need to be updated every five years because it is assumed that hydrologic conditions can change. To underscore this, when we updated the wetland delineation in 2020, it was obvious that stormwater flowing from a downspout attached to a new house to the south of the lot had created additional wetlands within Tax Lot 4100. In addition to the downspout, water is running into the property from a catch basin on Forest Lawn Road, which is also in the southwest corner of the property.

Although we know there is a shallow groundwater table associated with the wetland, its hydrology is being augmented by stormwater runoff flowing from developed areas to south and southwest. This is patently clear when comparing the additional wetland discovered in 2020 and the stormwater runoff from the downspout. It is highly recommended that all stormwater flows from adjacent developed areas be piped around the wetland. In the future, an updated wetland delineation should occur to document any changes to the wetland boundary.

Let me know if you have any questions.

Thanks

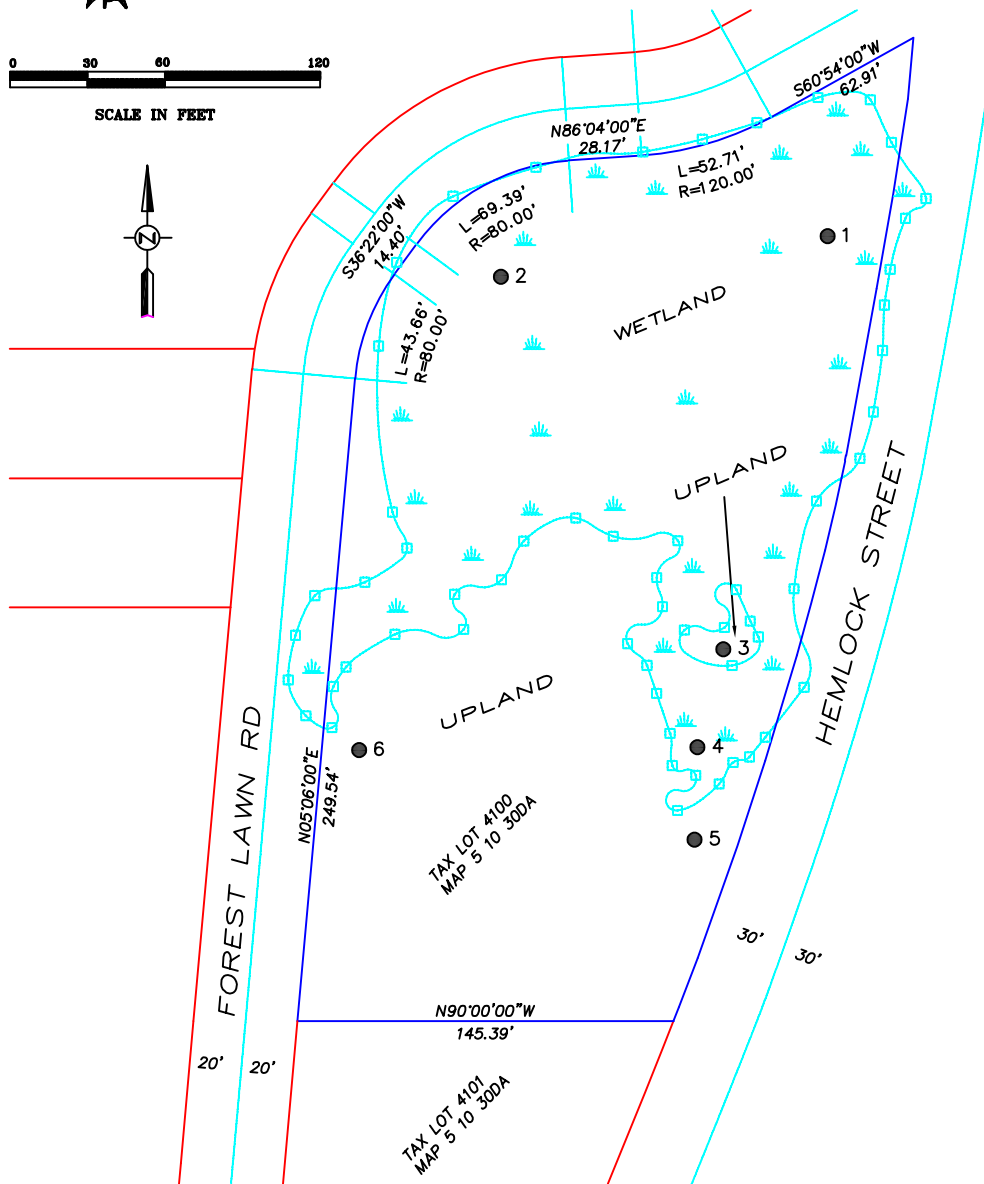
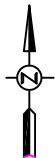
Sincerely,

John van Staveren, SPWS  
Project Manager



0 30 60 120

SCALE IN FEET

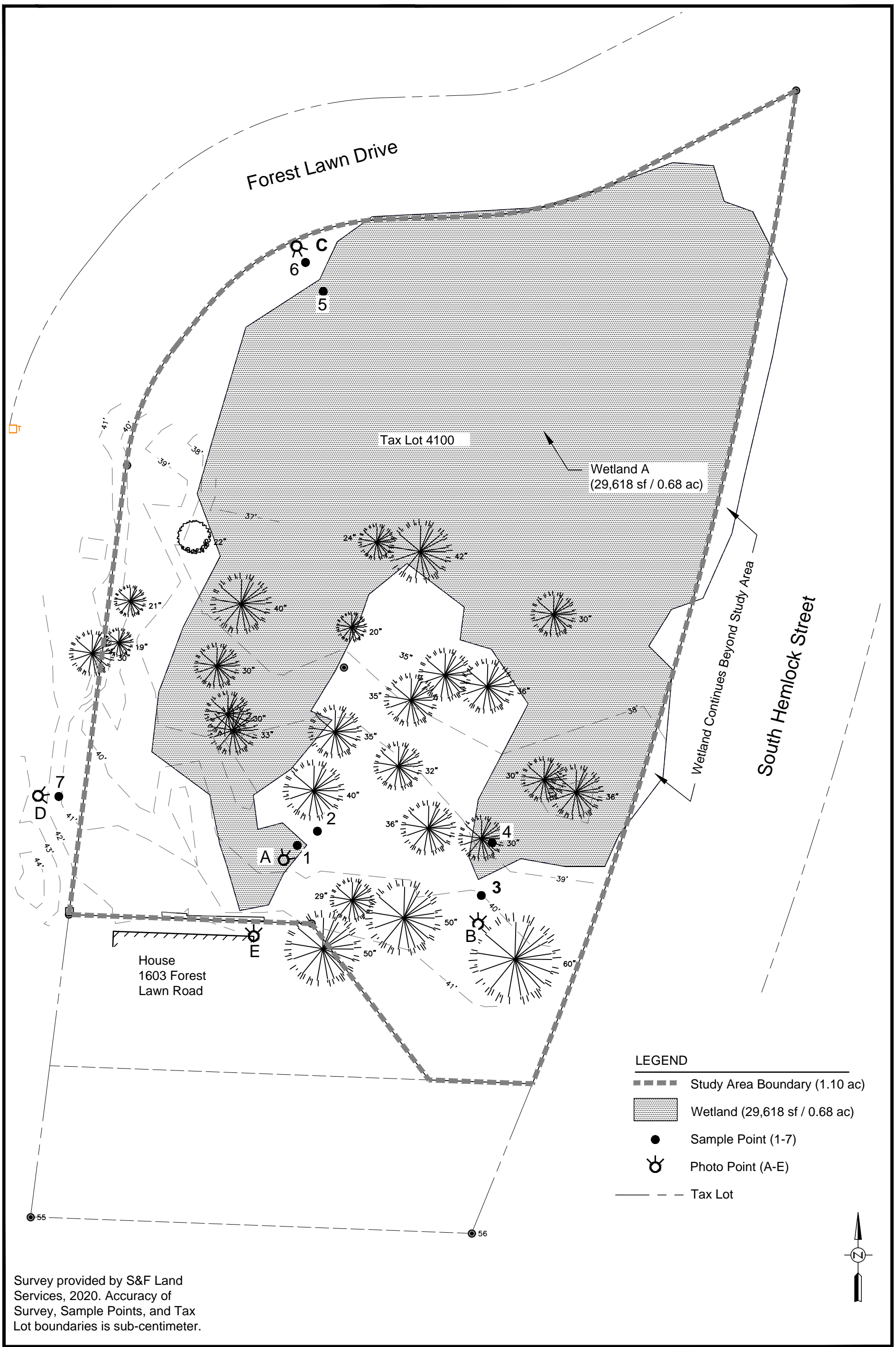


7/22/99

8-1680

Figure 5: Location of potentially jurisdictional wetlands and sample points for the Forest Lawn Road property in Cannon Beach, Oregon (base map supplied by HLB & Associates).







# CITY OF CANNON BEACH

April 29, 2021

Quail Cove, LLC  
c/o Rosanne Dorsey  
4344 SW Hillside Drive  
Portland, OR 97221

Dear Rosanne,

Per Municipal Code 13.16.050 of the City of Cannon Beach, every property owner within City limits is required to control any storm water runoff.

*Any person responsible shall maintain nonpublic storm drainage facilities on his or her property so as to prevent flooding or damage to other property not owned or controlled by the person responsible and to prevent injury to any person on property not owned or controlled by the person responsible.*

Your property at 1603 Forest Lawn Road appears to have open pipes disposing runoff water onto the neighboring vacant lot to the north. See the enclosed photos for reference. Based on the aforementioned municipal code, you are required to rectify this problem. Please resolve this issue by Thursday, June 3, 2021. Failure to comply with this request may result in a fine.

You have the option to hook up to the City's stormwater system to direct your runoff water away from your property as well as the neighboring properties.

If you have any questions, please feel free to contact me at (503) 436-8068.

Sincerely,

Karen La Bonte  
Public Works Director  
City of Cannon Beach

enclosure













BEFORE THE CITY OF CANNON BEACH

IN THE MATTER OF A DEVELOPMENT	)	
PERMIT FOR A STORMWATER MANAGEMENT	)	
SYSTEM AT TAXLOT# 51030DA04104	)	
APPROVING THE REQUEST AND ADOPTING	)	FINDINGS OF FACT,
FINDINGS	)	CONCLUSIONS, AND
		ORDER DP #22-17

ZONE: Residential Medium Density (R2)


APPLICANT: Bob McEwan Construction Inc.  
P.O. Box 2845  
Gearhart, OR 97138

The above-named applicant applied to the City for review and approval of a development permit for the purpose of installing a stormwater management system servicing 1603 Forest Lawn Rd., Taxlot 51030DA04104.

The project area is adjacent to a delineated wetland, however the submitted plans indicate that work will take place outside of the wetland or its buffer area. The City of Cannon Beach orders that this request for approval of a development permit is granted subject to conditions, and adopts the findings of fact, conclusions and conditions contained in attachment A.

This decision may be appealed to the Planning Commission by an affected party by filing an appeal with the City within fourteen days of this date.

DATED: November 29, 2022

  
\_\_\_\_\_  
Robert St. Clair  
Planner



## EXHIBIT "A"

### FINDINGS OF FACT

#### 1603 FOREST LAWN RD. STORMWATER MANAGEMENT SYSTEM – DP#22-17

<b>PROPERTY DESCRIPTION:</b>	Taxlot# 51030DA04104
<b>PROPERTY LOCATION:</b>	1603 Forest Lawn Rd.
<b>APPLICANT:</b>	Bob McEwan Construction Inc.
<b>PROPERTY OWNER:</b>	Quails Cove LLC
<b>ACTION:</b>	Approved

#### BACKGROUND

The approved project is the installation of approximately 100 linear feet of subsurface stormwater distribution piping and its connection to the City of Cannon Beach's stormwater management system. The purpose of this project is to resolve identified stormwater management issues at the subject property and prevent unpermitted discharge onto adjacent properties. No material will be removed as a result of this project and any displaced soils will be used to cover newly installed piping.

#### APPLICABLE CRITERIA

The following sections of the Cannon Beach Municipal Code are applicable to this application:

- 17.43.045 – Uses and Activities Permitted Outright in Wetland Buffer Areas
- 17.63.030 – Grading and Erosion Control Permit
- 17.92.010 – Development Permit
- 17.88.110 – Decision

#### FINDINGS

- (1) Section 17.43.030(C) states that underground or above ground utilities are an activity permitted outright in wetlands. The stormwater management system at 1603 Forest Lawn Rd. meets the definition of an underground utility. Based on the best available information provided in the Pacific Habitat Service's recent wetland study, dated March 19, 2021, for the adjacent property to the north, this project is not within a delineated wetland or wetland buffer area.

#### *17.43.035 Uses and Activities Permitted Outright in Wetland Buffer Areas*

*The following uses and activities may be permitted in wetland buffer areas of the WO zone, subject to the issuance of a development permit in accordance with Section 17.92.010, and subject to applicable standards, if permitted outright in the base zone.*

*C. Underground or above-ground utilities.*



- (2) Section 17.62.030(A)(1)(a) states that a development permit is required for any amount of clearing, grading, filling within one hundred feet of a stream, watercourse, or wetland. Based on a wetland delineation prepared for Taxlot 51030DA04100, immediately to the north of the subject property, this project will be within 100 feet of a wetland and its buffer area.

*17.62.030 Grading and Erosion Control Permit*

*A. Development Permit Required.*

- 1. Persons proposing to clear, grade, excavate or fill land (regulated activities) shall obtain a development permit as prescribed by this chapter unless exempted by Section 17.62.040. A development permit is required where:*
  - a. The proposed clearing, grading, filling, or excavation is located within one hundred feet of a stream, watercourse or wetland.*

- (3) Section 17.92.010.C.2 defines the administrative review procedure for Type 2 Development Permits.

- 1. Administrative review of Type 2 development permits shall follow the following procedure:*
  - a. The development permit application shall be reviewed by planning department against the applicable standards contained in this title and the application shall either be approved, approved with conditions, or denied.*
  - b. A decision shall be made within twenty days of the receipt of a complete application.*
  - c. The decision of the planning department shall be by signed written order. The order shall comply with Section 17.88.110(B). The written order is the final decision on the matter and the date of the order is the date that it is signed. The order becomes effective on the expiration of the appeal period, unless an appeal has been filed.*
  - d. The applicant shall be notified of the decision in accordance with the provisions of Section 17.88.130. Property owners within one hundred feet of the exterior boundary of the subject property shall likewise be notified.*
  - e. A decision on the development permit may be appealed to the planning commission in accordance with Section 17.88.140.*

- (4) Section 17.88.110 defines the decision making process for land use applications.

*Following the procedure described in Section 17.88.060, the hearing body shall approve, approve with conditions or deny the application or if the hearing is in the nature of an appeal, affirm, affirm with modifications or additional conditions, reverse or remand the decision that is on appeal.*

- A. The decision of the hearing body shall be by a written order signed by the chair or designee.*



*B. The order shall incorporate finding of facts and conclusions that include:*

- 1. A statement of the applicable criteria and standards against which the proposal was tested;*
- 2. A statement of the facts which the hearing body relied upon in establishing compliance or noncompliance with each applicable criteria or standards and briefly state how those facts support the decision;*
- 3. In the case of a denial, it shall be sufficient to address only those criteria upon which the applicant failed to carry the burden of proof or, when appropriate, the facts in the record that support denial.*

*C. The written order is the final decision on the matter and the date of the order is the date that it is signed. The order becomes effective on the expiration of the appeal period, unless an appeal has been filed. (Ord. 90-10 § 1 (Appx. A § 64); Ord. 89-3 § 1; Ord. 79-4 § 1 (10.070))*

## **CONCLUSIONS**

The Community Development Department has reviewed the application and determined that it meets the applicable criteria, upon the following conditions:

## **CONDITIONS**

1. Work shall be restricted to upland portions of the subject property and not take place within the delineated wetland on Taxlot 4100 or its buffer area;
2. A site plan of the erosion control measures shall be approved by the Public Works Director prior to ground disturbance;
3. Any tree removal applications or any tree protection zone fencing which may be required shall be approved and established prior to ground disturbance;
4. Work shall be completed prior to January 1, 2023, where possible, and any ground disturbance of exposed surfaces during the wet season (November 1 through April 30) should be temporarily planted with grasses, or protected with erosion control blankets, hydro-mulch, or hand broadcast straw a minimum of 3 inches thick and punched into the soil;
5. The use of motorized equipment shall be limited to the hours of 7:00am and 7:00pm per Municipal Code Section 8.16.





## Site Map



**DEVELOPMENT AGREEMENT  
CITY OF CANNON BEACH, OREGON**

This Development Agreement (the "Agreement") is made and entered into this the 29 day of November, 2022 by and between the **CITY OF CANNON BEACH, OREGON**, a municipal corporation of the State of Oregon (the "City") and Patrick Davis, LLC ("Developer" and together "Parties").

**WITNESSETH:**

**WHEREAS**, Developer is seeking to develop property located at the unaddressed, Taxlot# 51030DA04100;

**WHEREAS**, Developer's property is located adjacent to property owned by Roseanne Dorsey, at 1603 Forest Lawn Rd. (Taxlot# 51030DA04104);

**WHEREAS**, Dorsey has applied for a development permit to connect to the City's drainage system;

**WHEREAS**, Developer is concerned that Dorsey's connection will not address a stormwater drainage issue existing between Developer and Dorsey;

**WHEREAS**, Developer and City believe the stormwater drainage issue could be addressed by extending a 100-foot drainage line to a different outfall location;

**WHEREAS**, Developer has agreed to bear the cost of constructing the new drainage line and then dedicate the new infrastructure to the City;

**WHEREAS**, Developer will construct and install infrastructure as described in Exhibit "A" and depicted in Exhibit "B," attached hereto and incorporated herein by reference (hereinafter referred to as the "Development");

**WHEREAS**, the City desires that Developer construct the Development in conformance with all applicable laws and regulations;

**WHEREAS**, upon completion and final inspection, Developer will dedicate the Development to the City.

**NOW THEREFORE**, for and in consideration of the mutual covenants contained herein, the parties agree as follows:

**1. DEVELOPMENT BONDS.** Developer shall provide to the City development bonds as required by the City. In the event that the City is required to invoke any of said bonds due to the failure of the Developer to comply with the terms contained therein, the Developer agrees to reimburse the City for all costs, including but not limited to court costs and attorneys fees, that the City may incur in procuring performance of the obligations required by any such bond.

2. INSTALLATION OF DEVELOPMENT. Developer shall construct and maintain the Development in conformance with all applicable federal and state laws and with all applicable City regulations, including but not limited to the Cannon Beach Municipal Code in force as of the date of said approval.

3. TIMING. Construction shall commence upon execution and be complete by January 1, 2023.

4. INSPECTION AND DEDICATION. Once the Development is complete, the City's Public Works Department shall conduct a final inspection and ensure the Development complies with all applicable regulations.

5. OUTFALL LOCATION. Parties will mutually agree on the location of the northern outfall and, as a result, both Parties are released from any liability regarding the location and impact of the outfall. After construction and dedication to the City, if the Developer is not satisfied with the location of northern outfall, the Developer may request a Development Permit for any future extensions. Developer would be responsible for any future costs associated with these changes.

#### 6. OTHER TERMS AND CONDITIONS

- A. Effective Date. This Agreement is effective on the last date signed by the Parties below.
- B. Recitals: The recitals of and exhibits to this Agreement are material terms of the Agreement and are binding upon the Parties.
- C. Indemnification: Developer shall indemnify and hold the City harmless from and against any and all losses, costs, damages, expenses, or claims (including, without limitation, any and all reasonable attorneys' fees and expenses of litigation actually incurred) arising from or out of Developer's: 1) construction or maintenance of the Development or any portion thereof; 2) failure to construct or maintain the Development or any portion thereof; or 3) improper construction or maintenance of the Development or any portion thereof.
- D. Default: A party shall be deemed to be in default if it fails to comply with any provisions of this Agreement. Any party shall provide any other party with written notice of default and allow thirty (30) days within which to cure the defect.
- E. Modification of Agreement: No waiver, consent, modification or change of terms of this Agreement shall be binding unless in writing and signed by all Parties.
- F. Disputes: The Parties shall attempt to informally resolve any dispute concerning any Party's performance or decisions under this Agreement, or regarding the terms, conditions or meaning of this Agreement. The Parties agree that in the event of an impasse in the resolution of any dispute, a neutral third party may be used to facilitate these negotiations if the Parties agree.
- G. Applicable Law, Remedies, Personal Jurisdiction: This Agreement is subject to and shall be construed under the laws of the State of Oregon. Any Party may institute legal action to cure, correct or remedy any default, to specifically enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of this Agreement. All legal actions shall be

initiated in Clatsop County Circuit Court. The Parties, by signature of their authorized representatives below, consent to the personal jurisdiction of that court.

- H. **Excused Performance:** In addition to the specific provisions of this Agreement, performance by any Party shall not be in default where delay or default is due to a pandemic, war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the Parties, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance that are not within the reasonable control of the Party to be excused.
- I. **Severability:** If any one or more of the provisions contained in this Agreement is determined to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of the Agreement will not be affected or impaired in any way.
- J. **Integration:** This Agreement, Exhibit A and Exhibit B constitute the entire agreement of the Parties on the subject and supersede any prior discussions or agreements regarding the same subject.
- K. **Notice:** Any notice required or permitted under this Agreement shall be addressed and given in writing as follows: (i) by first Class U.S. Mail and shall be effective when actually delivered in person or 72 hours after having been deposited in the United States mail, whichever occurs first; (ii) by personal delivery, which shall be effective on the date of delivery; (iii) by email (including by .pdf attachment) if successful delivery is confirmed by electronic delivery receipt provided that the addressee acknowledges in writing (including by return email) that the addressee has received the emailed notice, which shall be effective on the date of electronic delivery receipt; or (iv) by FedEx and similar reputable overnight delivery service, which shall be effective on delivery.
- L. **Nonwaiver:** Failure by either party at any time to require performance by the other party of any of the provisions hereof shall in no way affect the party's rights hereunder to enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this no waiver clause.
- M. **Counterparts:** This Agreement may be executed in any number of counterparts and by different parties hereto on separate counterparts, and each counterpart, when so executed and delivered, shall be deemed to be an original and all of the counterparts, taken together, shall constitute but one and the same agreement. A party's properly executed and authorized signature may be given in .pdf format and transmitted by email and upon receipt by the other party shall constitute an original signature.
- N. **Authority:** Each of the parties and signatories to this Agreement represents and warrants that each has the full right, power, legal capacity and authority to enter into and perform the parties' respective obligations hereunder and that no other approval or consents of any other persons are necessary in connection therewith.



- O. Legal Compliance: Nothing contained herein shall be construed to require the commission of any act contrary to law, and wherever there is any conflict between any provisions contained herein and any present or future statute, law, ordinance, or regulation contrary to which the parties have no legal right to contract, the latter shall prevail. Any provision of this Agreement that is contrary to law or is affected by a change in the law shall be severed or limited only to the extent necessary to bring the remainder of the Agreement within the requirements of the law.
- P. Modification;: This Agreement may be modified, amended or terminated only with the written consent of all of the Parties, which consent shall not be unreasonably withheld.

Q. IN WITNESS WHEREOF, the parties have hereunto executed this Agreement as of the date first above written.

DEVELOPER

CITY OF CANNON BEACH,

Acting by and through its Director of the  
Department of Public Works

By David Riether  
Its manager of  
Patrick Dev. LLC

[Signature]

Attest: Brett S. Carson  
Printed Name: Brett S. Carson  
Title: Attorney

STATE OF OREGON  
COUNTY OF CLATSOP

Signed and sworn to (or affirmed) before me on

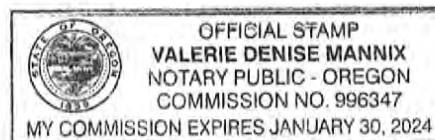
this 19<sup>th</sup> day of December, 2022

by Bruce St. Denis

Valerie D. Mannix  
Signature of Notary Public - State of Oregon

[CORPORATE SEAL]

(00825325; 1 )



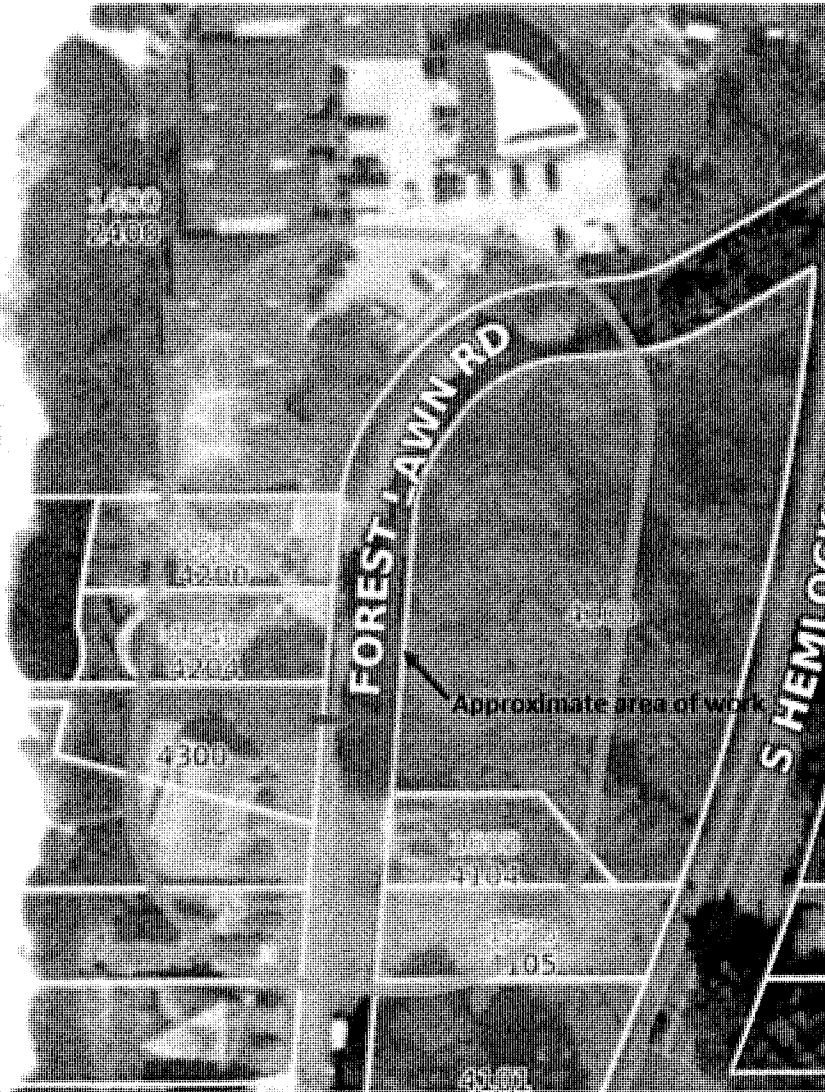
## **Exhibit A:**

1. The Developer will provide approximately 100' of storm water infrastructure from the southern connection point near Taxlot# 51030DA04105, 1625 Forest Lawn Rd., to the northern outfall along the Forest Lawn right-of-way, (as detailed in Exhibit B), upon agreement of the Developer and Director of Public Work's specified location.
2. The Developer will pay for all improvements.

{00825325; 1 }

**Exhibit B:**

**Forest Lawn Right-of-Way**





*After recording, return to:*  
City of Cannon Beach  
Attn: City Recorder  
163 E. Gower Street  
Cannon Beach, Oregon 97110

### **PUBLIC UTILITY TEMPORARY CONSTRUCTION EASEMENT**

The City of Cannon Beach ("Grantor"), for good and fair consideration the receipt of which is hereby acknowledged, does hereby grant Patrick Dowe LLC ("Grantee"), a **non-exclusive public utility temporary construction easement** ("Temporary Construction Easement Area") over, across and through the real property depicted in EXHIBIT A ("Easement Area") for the purpose of installing, public storm drainage facilities.

The parties further agree as follows:

1. Consideration. The true and actual consideration paid for easement consists of the mutual rights and obligations set forth herein.
2. Temporary Construction Easement. Grantor does hereby grant unto Grantee a temporary construction easement for the construction of the stormwater drainage facilities over, under, and across the area designated for the temporary construction easement, depicted in EXHIBIT A ("Temporary Construction Easement Area") The purpose of the Temporary Construction Easement is to facilitate the construction of the stormwater drainage facility described herein. This Temporary Construction Easement will expire on January 1, 2025. Upon the expiration of the Temporary Construction Easement, the Grantee will no longer be allowed or granted the right to use the Temporary Construction Easement Area for the purposes of construction of stormwater infrastructure.
3. Temporary Easement Condition. Within thirty days of the issuance of any Development Permit for the Temporary Construction Easement, Grantee shall return the Temporary Construction Easement Area to as good a condition as it was prior to the activities (i.e. repair/replace soil disturbance and/or vegetation; removal of construction debris, rocks/gravel and other materials; etc.) with all damage resulting from or arising out of said use to be repaired by Grantee at Grantee's cost.
4. Liability and Indemnity. Grantee shall indemnify, defend, and hold harmless Grantor against all claims, losses and litigation expenses resulting from property damage and/or personal injuries that occur or are alleged to occur as a result of the use and or maintenance of the Temporary Construction Easement Area by Grantee, its contractors, agents or employees. As used in this

section: the word "losses" means any liability, loss, claim, settlement payment, cost and expense, interest, award, judgment, damages (including punitive damages), diminution in value, fines, fees, and penalties or other charge other than a litigation expense; the term "litigation expenses" means any court filing fee, court cost, arbitration fee or cost, witness fee, and each other fee and cost of investigating and defending or asserting any claim of violation or for indemnification under this Easement including in each case, attorneys' fees, other professionals' fees, and disbursements.

5. Compliance with Laws. In utilizing the Temporary Construction Easement Area , Grantor and Grantee both agree to comply with any applicable State, local, or Federal laws or regulations for public health or safety, construction or environmental protection.

6. Grantor's Representations. Grantor represents and warrants that to the best of its knowledge, Grantor owns the entire fee simple interest in the Property and has the full power and lawful authority to grant this Temporary Construction Easement.

7. Entire Agreement. This Easement is the final and complete agreement between the parties concerning the rights granted herein, and supersedes all prior understandings with respect to it. Except as otherwise set forth in this Temporary Construction Easement, this Temporary Construction Easement may not be modified or terminated, nor may any obligations under it be waived, except by written instrument signed by all parties to the Temporary Construction Easement.

8. Further Cooperation. Each party agrees to execute such other documents and to perform such other acts as may be reasonably necessary or desirable to further the expressed and intent purpose of this Temporary Construction Easement.

IN WITNESS WHEREOF, the parties have executed this easement, this 27 day of November, 2022.

GRANTOR:

City of Cannon Beach

By:

BRUCE ST. DENIS

Title:

CITY MGR

Date:

12/19/22

GRANTEE:

Patrick Davis LLC

By:

David Seith

Title:

Manager

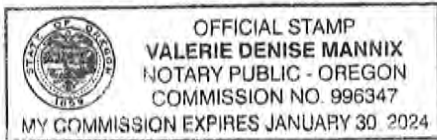
Date:

11/29/22



STATE OF OREGON  
County of Clatsop

This instrument was acknowledged before me on December 19 <sup>2022</sup>~~2020~~, by  
Bruce St-Denis as city manager of the City of Cannon Beach, an Oregon  
municipal corporation.



Valerie D Mann  
Notary Public for Oregon

STATE OF OREGON  
County of Clatsop

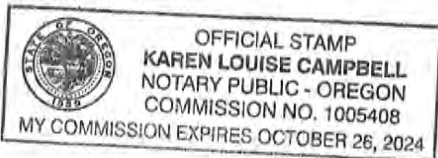
This instrument was acknowledged before me on November 27 2020, by  
David Pietka as Manager of Patrick Dorey, a(n) Oregon  
Limited Liability Company

Karen Campbell

Notary Public for Oregon

{00824994; 1 }

Page 3 of 4



This is an aerial map of a residential area in Portland, Oregon. The map shows several streets and lots. The main street running vertically is Forest Lawn Rd. To the right of Forest Lawn Rd is S Hemlock Street. The map includes several lots with owner names and acreage. The lots are numbered 1 through 10. The owners and their acreage are: Lot 1: Patricia Bero, 1.12, 40.50; Lot 2: 1.28, 4.05; Lot 3: 1.00, 4.00; Lot 4: 1.00, 4.00; Lot 5: 1.00, 4.00; Lot 6: 1.00, 4.00; Lot 7: 1.00, 4.00; Lot 8: 1.00, 4.00; Lot 9: 1.00, 4.00; Lot 10: 1.00, 4.00. The map also shows a large wooded area in the center, a parking lot on the left, and a street named S Hemlock Street on the right. The map is oriented with North at the top.



**Jeffrey Adams**

---

**From:** MARK GIBSON <appleeducator@mac.com>  
**Sent:** Sunday, January 08, 2023 5:02 PM  
**To:** Emily Bare; Jeffrey Adams; stclair@ci.cannn-beach.or.us; Jennifer Barrett  
**Subject:** Forest Lawn Wetland.....again?!

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello Emily, Jeff, Robert, and Jennifer:

As Yogi Berra once said: This is deja vu all over again! But I'd like to add my own quip: These developers are like weeds...you pull them but they keep coming back. What can be done to permanently be done with protecting Forest Lawn. Meetings after meetings - a final decision, and now I hear Forest Lawn is not only up for reevaluation to be developed, but concrete evidence of planned draining. Please tell me this is not true.

For whatever it takes, and least put me down on the record as a resident who IS NOT IN FAVOR OF DESTROYING FOREST LAWN for development for a few multimillion dollar homes (or for anything)!

Let's please move on and settle this matter for good.

Thank you, Mark Gibson

**Robert St. Clair**

---

**From:** William Reiersgaard <rackerbill@aol.com>  
**Sent:** Monday, January 16, 2023 1:58 PM  
**To:** Emily Bare; Jeffrey Adams; Robert St. Clair  
**Subject:** Appeal of DP#22-19

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Appears that this project is to drain the wetlands into the cities storm water system.

As a home owner along Forest Lawn in Cannon Beach I am very concerned about the work being contemplated by DP # 22-19.

Wetlands should be protected as they perform some very essential functions.

Wetlands have been shown to lessen the damage from flooding by temporarily storing the excess water.

Wetlands also provide habitat for wild life.

I own tax lot 4200

William Reiersgaard  
rackerbill@aol.com

January 16, 2023

Planning Commission  
City of Cannon Beach  
163 E. Gower  
PO Box 368  
Cannon Beach, OR 97110

Dear Planning Commission:

My name is David Pietka and I am co-owner of Patrick/Dave, LLC, which owns Tax Lot 51030DA04100. For multiple years, the city has been directing storm water from Forest Lawn Drive onto my property. Since at least 2005, my neighbor to the south has been dumping storm water on to my property. There is no reason to believe that this situation is legal and/or appropriate. I began a conversation with the city and the neighbor in April of 2021 and no action was taken to correct the situation. The neighbor's building permit required that storm water be handled "on site" or connected to the city system; this was not done and yet the city approved the final construction. No one knows exactly when the city started piping water onto my site.

In the attached packet of information you will find 1) a dated delineation, 2) a current delineation that indicates that the wetland has grown over time particularly in the area of our southern neighbor's outfall, 3) the permit for the neighbor's property to the south requiring that her storm water be handled appropriately in 2005, and 4) the city map illustrating the city's outfall onto our property.

The result of the city and the neighbor dumping water onto my site is that access to the body of the property where the dry area is located has been blocked. You are fully aware of your denial of our partition request. We tried to avoid the wetland finger by gaining access from Hemlock, which you denied. The result is that my property has been damaged to a large degree.

Permits were finally administratively approved to address both storm water issues in December, but one of the permits was appealed. The property owner to the south is to pay for part of the work, and I am willing to pay to for the drainage pipe extension to help the city address its issue. I am allowing the city's storm water to flow onto my property further to the north. Alternative solutions are very costly.

The citizen's appeal stated many erroneous facts. For example by the appeal numbers:

- 1) The city staff was over reaching as it attempted to "drain and dry the wetland." The effort was to fix the problem of the city directing storm water illegally onto a private property owner's property, not drain the wetland.
- 2) The movement of water to the north will alter the hydrology of the wetland. In fact, the city dumping its water onto the site for multiple years altered the hydrology of the site and the movement of water north will restore the hydrology to its previous condition over time.

- 3) There is a lack of information. This is not true, the project as proposed meets all city standards according to your esteemed city officials.
- 4) Application of wetland protection issues. All wetland protection requirements will be adhered to.
- 5) Point Source Discharge comment. The appeal guesses that the discharge point will not fit even though the city staff indicates it will.

The appeal should be denied, the project should continue as proposed. If this project is not allowed to continue, the private owner and the city will both be held responsible, as attorneys get involved.

Sincerely,



David Pietka, co-owner of Patrick/Dave, LLC

cc: Patrick Gemma  
Jamie Lerma  
Steven M. Berne, JurisLaw LLP





## PACIFIC HABITAT SERVICES, INC

9450 SW Commerce Circle, Suite 180  
Wilsonville, OR 97070

(800) 871-9333 • (503) 570-0800 • Fax (503) 570-0855

September 1, 2021

**Patrick/Dave, LLC**  
**Patrick Gemma and Dave Pietka**  
[pgemma@prologis.com](mailto:pgemma@prologis.com)  
[dpietka@msn.com](mailto:dpietka@msn.com)

**In Re:**            **Stormwater influence on southern portion of Tax Lot 4100 on Forest Lawn Drive,  
Cannon Beach  
PHS project number: 6978**

Dear Patrick and Dave:

In 1999, Pacific Habitat Services, Inc. (PHS) conducted a wetland delineation within tax lot 4100. The attached Figure 5 shows the results of that wetland delineation. We revisited the property in December 2020 to re-delineate the property, which is shown on Figure 6. In general, the location of the wetlands did not significantly change, however, we did observe additional wetlands in the southwest portion of the property.

Wetland delineations need to be updated every five years because it is assumed that hydrologic conditions can change. To underscore this, when we updated the wetland delineation in 2020, it was obvious that stormwater flowing from a downspout attached to a new house to the south of the lot had created additional wetlands within Tax Lot 4100. In addition to the downspout, water is running into the property from a catch basin on Forest Lawn Road, which is also in the southwest corner of the property.

Although we know there is a shallow groundwater table associated with the wetland, its hydrology is being augmented by stormwater runoff flowing from developed areas to south and southwest. This is patently clear when comparing the additional wetland discovered in 2020 and the stormwater runoff from the downspout. It is highly recommended that all stormwater flows from adjacent developed areas be piped around the wetland. In the future, an updated wetland delineation should occur to document any changes to the wetland boundary.

Let me know if you have any questions.

Thanks

Sincerely,

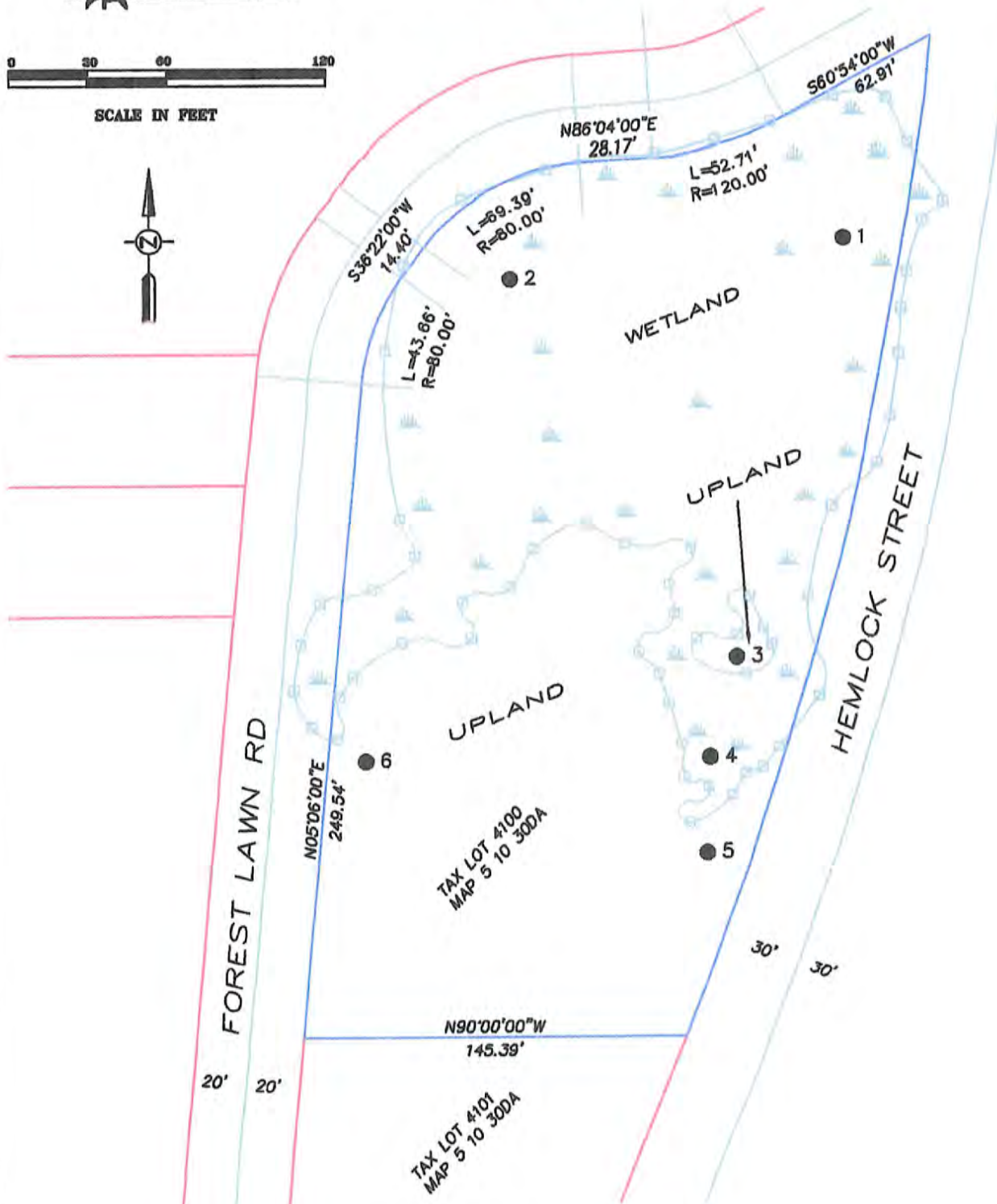
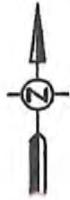
John van Staveren, SPWS  
Project Manager



Pacific Habitat Services, Inc.

0 20 60 120

SCALE IN FEET

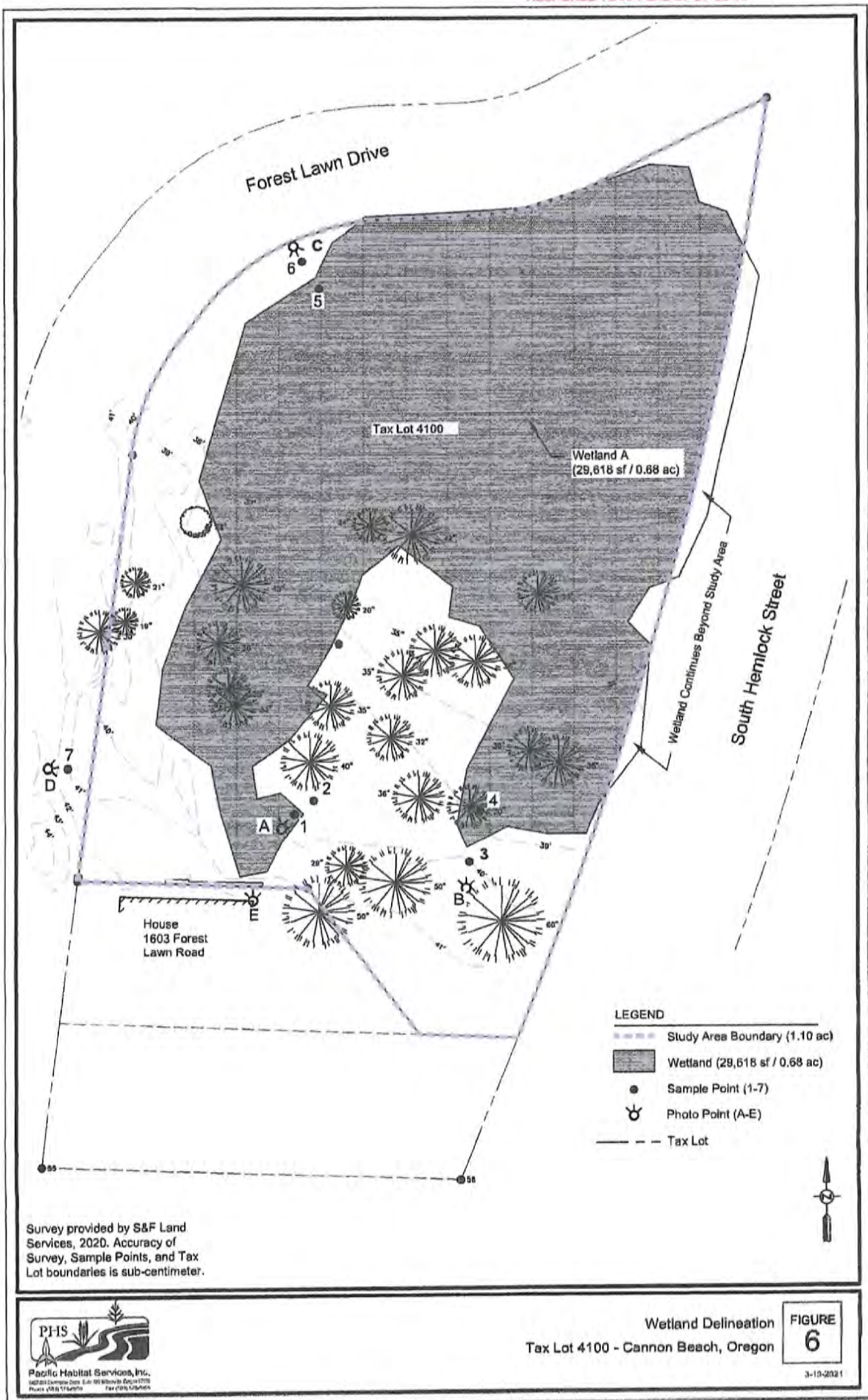


7/22/99

8-1680

Figure 5: Location of potentially jurisdictional wetlands and sample points for the Forest Lawn Road property in Cannon Beach, Oregon (base map supplied by HLB & Associates).









## DEPARTMENT OF PUBLIC WORKS

163 E. Gower Street, Cannon Beach, OR 97110

Phone (503) 436-2045, Fax (503) 436-2050

## Development Plan Review

BP 04-130

## Site Plan Attributes:

New Construction ☒ Remodel ☒Site Address: 1603 Forest LawnMap/tax lot 51030DA - 4104

Subdivision \_\_\_\_\_

Block \_\_\_\_\_ Lot \_\_\_\_\_

Owner or owner's Rep: Comfort

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Scale: ☒ 1" = 10' ☒ 1" = 20' ☒ 1/8" = 1' ☒ Other \_\_\_\_\_North Arrow: ☒ Locate Note: ☒ Legend: ☒ Lot Dimensions ☒Shows all existing and proposed ROWs and Easements? ☒ Yes ☒ No

## General Requirements:

Under 12.36.030 of the City Code, a Right-of-Way Use Permit is required for placement or removal of any improvement within the street right-of-way. Please see attached form. Work in ROW will not occur on Saturdays, Sundays and after 12:01 p.m. on Fridays without P.W. Director's approval. Traffic control is to comply with the signing requirements of the "Manual on Uniform Traffic Control Devices." All work shall be done in accordance with all applicable provisions of federal, state and local law, ordinance and administrative rules. All work in public right-of-way and all work which is connected, directly or indirectly, to the City of Cannon Beach's water, sanitary sewer, or storm sewer lines shall be constructed in accordance with applicable current APWA Oregon Chapter Standards. Is a pre-construction meeting required? ☒ Yes ☒ No

## Road Construction:

Street surface type: ☒ Asphalt ☒ Gravel ☒ Pre-existing ☒ New ☒ Dead End Street? ☒ Yes ☒ NoDo slopes exceed 12%? ☒ Yes ☒ No Do slopes exceed 15% (see 12.34.050.D)? ☒ Yes ☒ No

In general, utility trenching through existing pavement across the road alignment is discouraged. In cuts parallel to the road alignment, the open cut shall be a neat-line cut made by saw cutting a continuous line. All pavement cuts must be temporarily paved with cold mix asphalt within 7 days and permanently paved with hot mix within six months. The minimum aggregate section, unless otherwise approved by the Director, shall be 6-inch base course of 1 1/2" - 0 inch crushed rock. The wearing surface of asphalt concrete (A.C.) streets shall be Level 3. Minimum total thickness of asphalt concrete shall be three inches in two lifts. Asphalt Street Cutting? ☒ Yes ☒ No

Conformance with road design standards? ☒ Yes ☒ No ☒ Incomplete Submittal ☒ NA

## Driveway Entrance:

If lot frontage is 50 ft. or less, maximum allowable width of driveway at property line is 20 feet. If lot frontage is greater than 50 feet the maximum allowable width is to be determined.

Lot Frontage: 50.2 ft. Maximum allowable driveway width: 20 ft.Do plans show where the driveway will be connecting to existing roadway and surface type? ☒ Yes ☒ NoDrainage Improvements required: ☒ 10" culvert or adequate bridge ☒ To be determined ☒ None required

All driveways must be located the maximum distance which is practical from a street intersection and in no instance shall the distance from an intersection be closer than 40 feet on an arterial street and 10 feet on a local street as measured from the nearest curb return radius. Distance of driveway from street intersection: >200 ft.

Drainage: *See note next page*

All development applications must include a plan for disposal of storm water runoff. Unless the site is served by existing City-maintained storm sewer, the plan must address the capacity of the storm sewer system..

Does parcel drain to an adjacent surface water feature? ☒ Yes ☒ No

Name/Type of water feature: \_\_\_\_\_

Is there an existing drainage system near site? ☒ Yes ☒ NoIf yes, attach map of existing system. Is there adequate drainage capacity? ☒ Yes ☒ Improvements RequiredIf improvements are required, will it be incorporated into the public system? ☒ Yes ☒ No ☒ TBD ☒ NAVideo tape inspection of storm drain extension required? ☒ Yes ☒ No ☒ NAConformance with storm drain design standards? ☒ Yes ☒ No ☒ Incomplete Submittal ☒ NA



**Sanitary Sewer:**

Service existing? ☒ Yes ☒ No Location: \_\_\_\_\_  
 Install new sewer lateral? ☒ Yes ☒ No If yes, installation of the service to the property line is done by City personnel. Owner is to indicate preferred lateral location at property line and advise public works.  
 Conformance with sanitary sewer system design standards. ☒ Yes ☒ No ☒ Incomplete Submittal ☒ NA  
 Video tape inspection of sewer extension or lateral required? ☒ Yes ☒ No  
 Grease Trap Required ☒ Yes ☒ No

**Water:**

Service existing? ☒ Yes ☒ No Location: \_\_\_\_\_  
 Install new service branch? ☒ Yes ☒ No If yes, installation of the service to the property line is done by City personnel. Owner is to indicate preferred meter location at property line and advise public works.  
 Meter upgrade required? ☒ Yes ☒ No Main Extension required? ☒ Yes ☒ No  
 Location of closest fire hydrant: Ross & Hemlock Distance to property: 150 ft.  
 Conformance with water system design standards? ☒ Yes ☒ No ☒ Incomplete Submittal ☒ NA  
 Approved Backflow Assy Required ☒ Yes ☒ No TBD

**Other Utilities:**

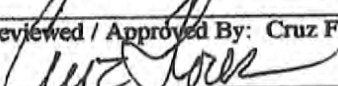
The City requires all wire utilities to be run underground. Contractor is to secure separate Right-of-Way Use Permit prior to work and submit utility schematics. Natural gas is to be coordinated with NWNG.

**Misc:**

Other issues that will need to be addressed:

1. Drainage – there is no storm drain available. Owner must retain storm water on site.

2. \_\_\_\_\_  
 \_\_\_\_\_  
 3. \_\_\_\_\_  
 \_\_\_\_\_  
 4. \_\_\_\_\_  
 \_\_\_\_\_

Plans Reviewed / Approved By: Cruz Flores 	Date: 12/16/04
--	----------------

**Public Works Final Approval: (Checked items require inspection)**

	Date of Approval
Road Structure	
Drainage Structures	
Driveway	
Utilities	
Wastewater Connection	
Water Connection	
Misc.	
Final Approval	

# PRELIMINARY FOREST LAWN PARTITION EXHIBIT SKETCH OF PROPOSED LOTS 1 AND 2

RESPONSE TO APPEAL OF DP 22-19

## LEGEND



1 INCH = 30 FEET

## LEGEND:

- PROPOSED ACCESS AND UTILITY EASEMENT
- AREA OF WETLAND
- AREA OF PROPOSED DRIVEWAY
- TREE - CONIFER
- BOUNDARY LINE
- RIGHT OF WAY
- LOT/PARCEL LINE
- WETLAND DELINEATION LINE
- COMMUNICATION STORM SEWER
- POWER POLE
- POWER JUNCTION BOX
- STORM CULVERT
- FOUND MONUMENT OF RECORD
- WATER METER
- STORM CATCH BASIN

## CURVE DATA:

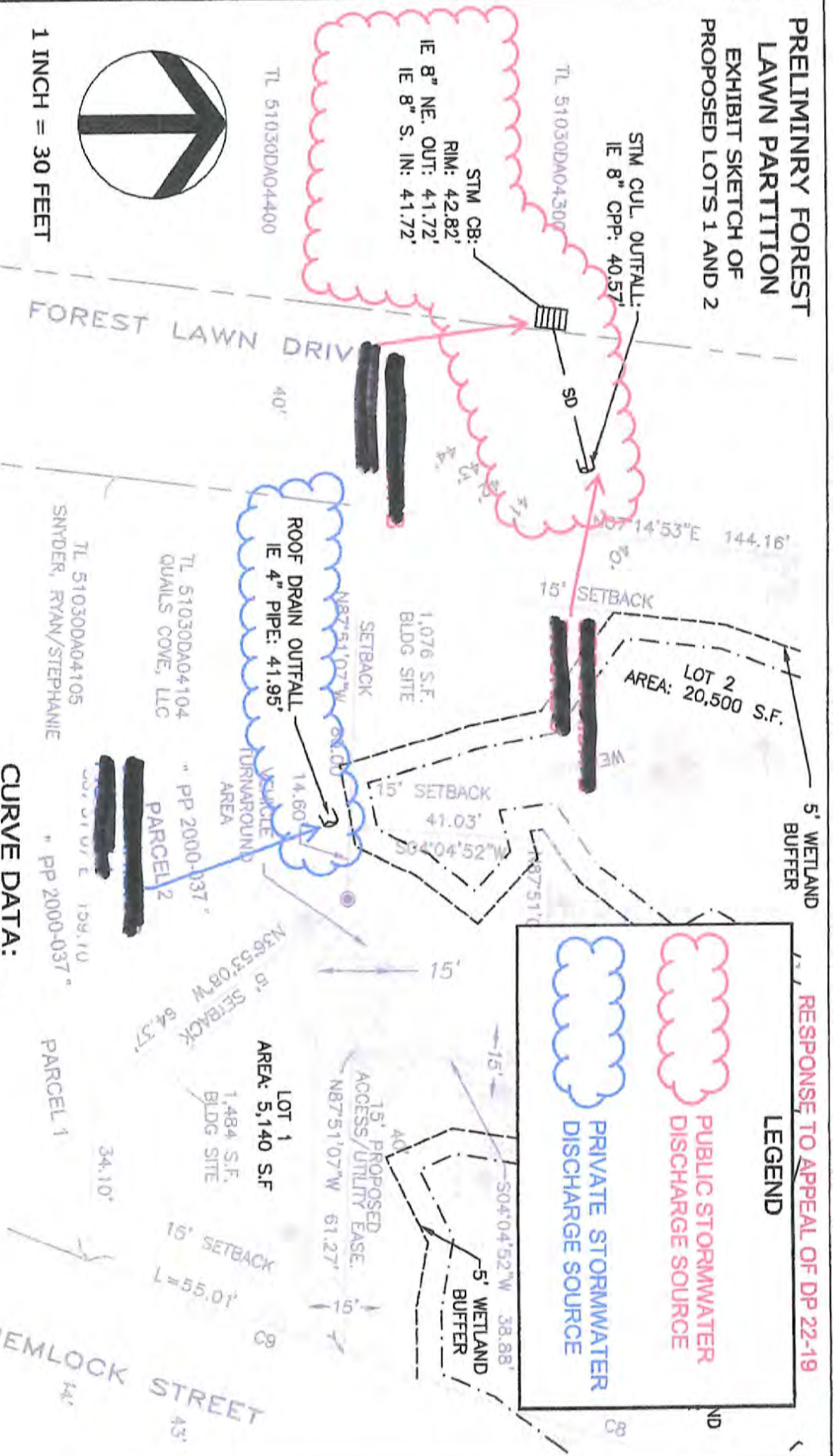
- C8  
R=1402.02'  
L=66.68'  
Δ=002°43'30"
- C9  
R=1402.02'  
L=79.29'  
Δ=003°14'25"

**S&F Land Services**

Date: 7/11/2022  
Proj No: 20C30501

1725 N ROOSEVELT DR, STE  
B, SEASIDE, OR 97138

www.sflands.com  
info@sflands.com





January 18, 2023

To the Planning Commission,

This letter pertains to the appeal filed in connection with a permit allowing the stormwater line adjacent to Tax lot #51030DA04100 to be moved from its present discharge point at the upland portion of the lot 200 feet to the north to the lowland portion. This lot was purchased by the developer/owner with the intention of building at least three homes on the upland portion of the lot.

Unfortunately, I understand that the result of making this change would ultimately drain the wetland and eventually destroy it, allowing the developer/owner to have much more buildable land. Apparently City Staff are in favor of this outcome, per a public record email exchange between a staff member and the developer. In this email, the staff member offers to “make plans to do the work as quickly as we can work it into our schedule” stating that “the benefit of doing it now is we could tell if the work helps dry out the lot the way you had hoped”. If this is not a blatant effort to help the developer create more buildable land, I don’t know what else it could be. I believe this issue would be most fairly considered in an unbiased manner by you, the members of the Planning Commission.

In addition, since this proposed work would directly affect the Wetland Overlay Zone, a conditional use permit should be required, not just a development permit. The developer claims that the city is discharging storm water onto his property illegally and demands that the city move the discharge point to a spot that blatantly would benefit him by creating more buildable land. This necessitates review by you, the unbiased members of the Planning Commission.

Furthermore, the city’s contention that since the work would be done outside the Wetland Overlay Zone (by a mere 5 feet or less!) a conditional use permit is not required. Have they not realized that the result of moving the stormwater drainage point from the south end of the lot to the north end will DIRECTLY impact the Wetland Overlay Zone? Also, why should the city be responsible for moving the drainage point in the first place? Is there a historical precedent that says this should be done? Perhaps it is not necessary to move it so far. Perhaps half the distance or less would suffice. Or maybe there is no necessity at all. The city administration seems to be in favor of moving it, which is, to me, an excellent reason why they should not be the only body making this determination.

Finally, the permit as written speaks very generally about the proposed project and is missing important specifics. Also the drawings are unclear as to the distance from the wetland buffer boundary and the discharge point. These and other unanswered questions, per the appeal, must be clarified before allowing any work to be done.

I ask you, the members of the Planning Commission to therefore carefully review the development permit DP#22-19 and recommend its denial to the city council.

Sincerely,

Susan Glarum  
PO BOX 108  
Cannon Beach, OR 97110



DEC 29 2022

Received

## CITY OF CANNON BEACH

## NOTICE OF APPEAL - ADMINISTRATIVE DECISION

Appellant's Name: Dana Cardwell  
Email Address: danacardwell@outlook.com  
Mailing Address: P.O. Box 1305  
Cannon Beach, OR 97110  
Telephone: 303-941-9570

1. Appeal of Administrative Decision by Robert St. Clair, regarding: DP #22-19

as stated in letter dated December 16, 2022

2. Specific grounds relied upon for the appeal, including any Zoning Ordinance criteria or standards that you consider to be relevant:

This matter requires a conditional-use permit rather than a development permit. Please see attached 5 pages for additional grounds and reasoning.

Please attach additional pages, if needed, and any other relevant information.

FEE: \$600.00

Appellant Signature: Dana Cardwell Date: 12-28-22

For Staff Use Only:

Date Appeal Received: 12-11-2022 By: Jessa Pfund  
Appeal Fee Paid: \$600 cash Receipt No.: 25-029841

Fee:

803 - Planning \$600

(Last revised March 2021)

PO Box 368 Cannon Beach, Oregon 97110 • (503) 436-8042 • TTY (503) 436-8097 • FAX (503) 436-2050  
www.ci.cannon-beach.or.us • planning@ci.cannon-beach.or.us

City of Cannon Beach  
Finance Department

DEC 29 2022

PAID



## **Background**

This appeal is filed in connection with Development Permit #22-19, permitting the extension of the stormwater line adjacent to Taxlot #51030DA04100 which is a Wetland Lot of Record. DP #22-19 relates to a development permit administratively approved by City Staff on December 16, 2022, that allows the developer/owner of Taxlot #51030DA04100 to relocate the existing storm water discharge point 200' to the northern end of the Wetland Lot of Record. This action would redirect existing storm water discharge from the upland portion of the Wetland Lot of Record/ Wetland Overlay Zone to the lowland portion.

The concerns are many and noted below.

### **1. Efforts to Drain & Dry the Wetland, Supported by City Staff**

The overreaching concern with any development on this lot and in particular with this permit is that the wetland will be systematically drained and destroyed over several years. An extension and relocation of existing stormwater to the far end of the lowland portion of the WO Zone would likely dry the upland portion and create more upland for the developer to build on over the next few years. The wetland can be re-delineated again in 2026, allowing for the possibility of an enlarged upland delineation and more buildable land in the wetland. Granting of this permit aids the efforts to dry the wetland and gain more buildable area.

There is email communication in the public record between the developer's agent and City Staff attesting to this effort. The email dated September 14, 2021 (copy attached) states "Obviously, the benefit of doing it [moving the stormwater discharge point] is we could tell if the work helps dry out the lot the way you had hoped..." This communication clearly demonstrates the developer's desire to dry the wetland and understanding and facilitation of that desire by the City Staff member.

I believe an appeal of this permit is necessary to ensure the matter is reviewed by a neutral body such as the Planning Commission and removed from the discretion of City staff. Review of this matter by the Planning Committee will resolve any ethical concerns and

appearance of favoritism towards the developer on the part of City staff.

## **2. Conditional-Use Permit Needed, not Development Permit**

The work approved in the permit directly and exclusively impacts the Wetland Overlay Zone. With this permit, stormwater along Forest Law is being redirected from its current discharge spot (directly adjacent the upland area) to a new discharge spot (directly adjacent the lowland area). This relocation no doubt alters the hydrology of the WO Zone. The primary reason for this permit is to relocate water in the WO Zone. Because this permit directly and exclusively impacts the WO Zone a Conditional-Use permit is needed, not a mere Development permit. Cannon Beach Code provisions related to the protection of wetlands, including the necessity of conditional-use permitting for projects impacting wetlands should apply to the work approved under this permit.

I believe an appeal of this permit to the Planning Commission is necessary to ensure appropriate review and permitting of this proposed work. Specifically, a conditional-use permit should be required, not a mere development permit. City staff inappropriately granted approval of this work via a development permit when a conditional-use permit is needed.

## **3. Lack of Information**

There is a lack of information and specificity regarding the intended work. In particular, how far from the wetland buffer boundary will the new discharge point be? From the drawings provided in the permit it looks to be 5' or less but it is difficult to tell. Will the wetland buffer be surveyed and located on-site prior to any work? Does McEwen intend to pipe or ditch the stormwater at it's outfall? Or are alternative stormwater management practices being put to use? Will there be a vault, pump or catchment basin? All of these questions are unanswered and have significant bearing on the impacts to the WO Zone.

There is also a lack of information as to why this permit or work is needed. Whatever the reason, it should be noted by both the developer and City staff.

The public record makes note of the developer's claim that the City is illegally discharging stormwater onto his property (the WO Zone). Without more information, it appears the developer is demanding the City resolve this issue by moving the stormwater to a location more agreeable to his development plans. If this is the case, any such brokered agreement should be reviewed by the Planning Commission not decided by City staff. Neutral body review is necessary.

Relatedly, does the City have an obligation to move the stormwater? What is the historical record related to this stormwater discharge? Perhaps City stormwater discharge onto a wetland is not illegal as claimed by the developer. Perhaps developer should not be granted a stormwater line extension or perhaps a 50'-75' stormwater line extension resolves the issue better than a 200' extension. Again, the reasoning behind this permit needs to be reviewed by a neutral body and not decided administratively.

For all of the reasons set forth in this Paragraph 3, I believe an appeal of this permit to the Planning Commission is necessary to ensure the matter is reviewed by a neutral body under the appropriate standards.

#### **4. Application of Wetland Protections**

The permit at issue states that all work will take place outside the WOZone and therefore the wetland protections set forth in the Cannon Beach Code do not apply. Because the work is being conducted in the right-of-way and slightly outside the WO Zone, City staff believe that conditional-use permitting is not required and Cannon Beach Code provisions 17.43.040 and 17.43.045 (pertaining to wetlands) don't apply. This interpretation of the Code seems disingenuous and contrary to the spirit of the law. Even though the actual work may be conducted outside the WO Zone (perhaps only by 5' or less), the direct impact of the work is within the WO Zone. The

stormwater will still discharge directly into the wetland. The new line and discharge point are purposefully outside the WO Zone in an attempt to avoid application of the wetland protections in the Code. The intent of the Code is to protect wetlands. The intent of this permit is to disregard and work-around the protections provided wetlands in the Code. Given the extremely close proximity of the proposed work to the WO Zone, the lack of detailed information in the permit, and the direct impact to the abutting WO Zone, I believe an appeal of this permit is necessary so that the matter can be reviewed by the Planning Commission as envisioned by the Code.

## **5. Point Source Discharge**

As noted above, the permit is general in nature and missing specifics regarding the proposed project. The strip of land where the proposed work is to take place is a tight space that runs along Forest Lawn and the wetland. From observation, it seems near impossible that a discharge point will actually fit into this space and it seems likely that the discharge point may be much closer to the WO Zone than indicated in the drawing. It's a guessing game without more information. If McEwen intends to pipe or ditch the storm water it is considered point source at the outfall. Point source discharge of stormwater into the wetland is a conditional-use and cannot be approved with a mere development permit. Point source discharge, even if only a few feet or inches from a WOZone should be considered a conditional-use. For these reasons, this matter must be heard by the Planning Commission and warrants an appeal.

## **Summary**

I strongly disagree with the assertions made by City staff in DP#22-19. The results of the proposed work wholly affect the WO Zone. As such, conditional-use permitting should be required for this work and Cannon Beach Code provisions pertaining to wetlands should apply. Please accept this appeal and allow the Planning Commission to review the merits of DP#22-19 and the proposed stormwater relocation.



WB2679/51  
https://www.aarpmedicareplans.com/content/aarp...  
https://www.aarpmedicareplans.com/content/aarp...  
...accessibility)

On Tue, Sep 14, 2021 at 12:00 PM Karen La Bonte <[labonte@ci.cannon-beach.or.us](mailto:labonte@ci.cannon-beach.or.us)> wrote:

Jaime,

Based on our last discussion when Jeff and I were out, I thought you were somewhat undecided as to having us start now or wait until you had a better idea as to how this was going to go based on your proposed building plans and the Planning Commission. Obviously, the benefit of doing it now is we could tell if the work helps dry out the lot the way you had hoped, and we could give the neighbor a specific time that she needed to be ready to have her work done (by McEwen I believe) so she could hook up to our storm system.

I guess I was waiting for you to give me the green light that you were ready for me to move forward, and you'd have the specific area marked as to where we were extending it to. If you're ready, then we'll make plans to do the work as quickly as we can work it into our schedule. *Please send me photos of the marked area so we are clear on where you want the drain extended to.*

Please confirm.

Karen



Karen La Bonte  
Public Works Director

City of Cannon Beach  
p: 503.436.8068 | tty: 503.436.8097 | f: 503.436.7  
a: 163 E. Gower St. | PO Box 368 | Cannon Beach,  
97110

w: [www.ci.cannon-beach.or.us](http://www.ci.cannon-beach.or.us) | e: [labonte@ci.cannon-beach.or.us](mailto:labonte@ci.cannon-beach.or.us)



City of Cannon Beach							
Building Codes Division							
Tree Permit Applications							
December 2022							

[illegible]